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Cuba. Laws, statutes, &c.

TRANSLATION

OF THE

MUNICIPAL AND PROVINCIAL LAWS

IN FORCE

IN THE

ISLAND OF CUBA.

WAR DEPARTMENT,
DIVISION OF CUSTOMS AND INSULAR AFFAIRS.
August, 1899.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1899.

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PROVISIONAL MUNICIPAL LAW FOR THE ISLAND OF CUBA.[1]

TITLE I.

MUNICIPAL DISTRICTS AND THEIR INHABITANTS.

CHAPTER I.—*Municipal districts and their alterations.*

ARTICLE 1. A municipality is the legal association of all the persons who reside in a municipal district.

It is legally represented by a municipal council.

ART. 2. A municipal district is the territory under the administrative jurisdiction of a municipal council.

The following are the requisites of a municipal district:

1. That the number of resident inhabitants be not less than 2,000.

2. That it have, or that there may be apportioned to it, a territory in proportion to its population.

3. That it can meet the obligatory municipal expenses with the revenues authorized by law.[2]

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[1] *General government of the island of Cuba.*—His Excellency the colonial secretary, in a telegram of the 25th instant, received to-day, says the following: "His Majesty the King has deemed proper to issue, under date of the 21st instant, the following royal decree: 'In view of the reasons stated to me by the colonial secretary, in concurrence with the council of secretaries, and by virtue of the authority granted my Government by article 89 of the constitution of the Monarchy, I decree the following: Article 1. There shall be promulgated and enforced in the island of Cuba, provisionally, the organic municipal, and provisional laws of the Peninsula, modified as prescribed by article 89 of the constitution of the Monarchy. Article 2. My Government shall inform the Cortes of this decree, in compliance with the said article. Given at the Palace on June 21, 1878. Alfonso.' Jose Eduayen, colonial secretary." And this Government having ordered the immediate enforcement of the foregoing royal decree, it is published in the *Gaceta*, together with the laws referred to in the same, for the consequent effects. Havana, June 28, 1878. Arsenio Martinez de Campos.

[2] By a royal order from the department of the interior of September 26, 1885, the resolution adopted by the deputation of Zamora, in the proceedings instituted in order to transfer the seat of the municipality of Olmo de Guarena to Vallesa, for the reasons which follow, was declared final:

Whereas, according to certificates of July 27 and 28 last, duly executed, the municipal council resolved upon the transfer, and that the municipal district in question has 166 residents, of whom 93 signed, on the 24th of the said month, a petition addressed to the municipal council requesting that the measure be carried out, the residence of the petitioners being duly certified to; whereas, according to several royal orders, among others those of October 8, 1879, and July 13, 1880, from which emanated the legislation observed on the subject, issued in accordance with a report from the council of state, the resolutions of provincial deputations relating to the change of the seat of municipalities are final when they are issued in accordance with the report of a majority of the municipal council and with that of the residents of the district, which requisites are present in this case.

The present municipal districts which have a municipal council may continue in existence even though they do not fill the requisite prescribed in number 1 of this article.

ART. 3. Municipal districts may be changed:

1. By their annexation in whole to one or more adjoining districts.

2. By the annexation of part of a district, either to constitute, in itself or with one or more parts, an independent municipality, or either to annex it to one or to several of the adjoining districts.[1]

ART. 4. The abolition of a municipality and its annexation to one or more of the adjoining districts is proper—

1. When, on account of the lack of means or other good reasons, it is resolved and requested by the municipal councils and a majority of the inhabitants of the municipalities interested.

2. When, on account of the widening and development of building, the limits of the towns become confused and it is not easy to determine their true limits.[2]

ART. 5. The segregation of a part of a district in order to annex it to other existing ones is proper when requested by a majority of the residents of the portion to be segregated and when it can be effected without prejudicing the legitimate interests of the rest of the municipality, nor cause it to lose the conditions mentioned in article 2.

The segregation of part of a district in order to constitute one or more independent municipalities, in itself or in union with one or more portions of adjoining districts, may take place by the agreement and on the request of a majority of the persons interested and without prejudicing legitimate interests of other towns, provided the new districts which are to be formed include the conditions mentioned in article 2.[3]

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[1] By a royal-decree ruling of July 5, 1883, it was resolved that it behooves the governor of the province, and in a proper case the provincial deputation, as a court having jurisdiction over litigative matters to determine to what municipal district a piece of land belongs, the jurisdiction over which is disputed by two municipalities, without prejudice to the question of ownership.

By a royal order of May 21, 1887, issued by the department of the interior, it was declared that, in order to transfer the seat from one town to another, the same formalities must be observed, in so far as possible, as those for the change of municipal districts.

[2] By a royal decree of July 12, 1884, of the department of the interior, a resolution of the provincial deputation of Barcelona was declared null, which decided the annexation in whole of the district of Santa María de Sans to the capital of the province, because the wishes of the residents of both towns were not stated.

[3] Circular royal order of February 26, 1875, stating the conditions necessary to request the annexation and segregation of a municipal district, and stating the documents which must accompany the petitions relating thereto.

His Majesty the King (whom God preserve), has informed himself of the numerous statements addressed to the department of the interior by residents of different towns, requesting that the segregation of some zones of the municipal district of which they form part be ordered, either to constitute an independent municipality or to be annexed to other different ones from those they actually belong to; and the repetition of such appeals, as well as the lack of documents which is observed in all

ART. 6. In any of the cases of annexation or segregation the persons interested shall indicate the new demarcations of lands and shall effect the division of property, lands owned in common, public uses and credits, without prejudice to the rights of ownership and public and private servitudes existing.

ART. 7. The Governor-General of the island shall decide the proceedings relating to the creation, segregation, or abolition of municipalities and municipal districts, after reports from the governor and from the deputation of the province.

His decision shall be final when it is in accordance with the report of the provincial deputation.

In case of disagreement the proceedings shall be forwarded to the colonial department, which shall decide after consulting with the council of state.

ART. 8. Every municipal district shall form part of a judicial district and of a province, and can not belong, for any reason whatsoever, to different jurisdictions of the same order.

ART. 9. In order to transfer a municipal district from one judicial district to another, proceedings shall be instituted hearing the municipal councils of the town and of the seats of the judicial districts, as well as the deputation and the governor.

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of them, require the adoption of rules in accordance with which said segregation may take place, and the reminder that until the present municipal law is repealed or amended, it behooves the provincial deputations in the first place to decide this class of requests. It is sufficient to look at the law to judge what documents are necessary in these proceedings. According to article 5 of said law, in order that the segregation of part of a municipal district may be proceeded with, the following requisites are necessary:

1. That a majority of the residents of the zone to be segregated requests it. 2. That this segregation does not prejudice the legitimate interests of the municipality. 3. That it does not cause it to lose the conditions mentioned in article 2 of the same law.

It is therefore indispensable and you must see most especially that all proceedings for the segregation are accompanied with the following documents:

(1) Petition of all the residents who request the segregation; (2) certificate from the secretary of the municipal council, viséd by the mayor and drawn up after the signatures, in which the residence of the subscribers shall be stated; (3) certificate of the secretary of the municipal council, also viséd by the mayor, of the total number of residents of the municipal district in question; (4) a similar certificate with regard to the part of the district which it is desired to segregate; (5) a certificate from both municipal councils, if the segregation is made in order to annex the part segregated to another municipality, relating to the conjunction of pasture grounds which the residents of the zone it is desired to segregate may have with each one thereof; (6) a similar certificate issued only by the municipal council to which the zone to be segregated belongs, in case the segregation is to take place in order to establish a new municipality; (7) reports from the municipalities interested and from all the towns situated on the boundaries of the same; (8) a plan of the ground.

By a royal order of April 23, 1880, the proceedings instituted with regard to the segregation of territory of the municipalities of Sabanilla del Encomendador and Alfonso XII, and their annexation to that of Unión de Reyes in the island of Cuba, was decided in favor of the provincial deputation of Matanzas after a report from the council of state.

The Governor-General shall forward the proceedings, with his report, to the colonial department, which shall decide thereon after hearing the council of state.

ART. 10. Groups of population, although they have their own municipal council, situated at a maximum distance of five kilometers from the district line of the capital of the island or from any other town containing the same or a larger number of inhabitants, may be annexed to said districts by virtue of a resolution of a royal decree issued after consultation with the council of state.

CHAPTER II.—*Inhabitants of municipal districts.*

ART. 11. The inhabitants of a municipal district are divided into residents and transients.

The residents are subdivided into residents and denizens.

ART. 12. Residents are all emancipated Spaniards who permanently reside in a municipal district and are recorded as such in the register of the town.

Denizens are all Spaniards who, without being emancipated, reside permanently within the district, forming part of the family or household of a resident.

Transients are all persons who are not included in the foregoing paragraphs and are temporarily in the district.

ART. 13. Every Spaniard must be registered as a resident or denizen of some municipality.

A person who resides alternately in different ones shall claim the residence of one of them.

Nobody can be a resident of more than one town; if any person is recorded in the registry of two or more towns, the last declared residence shall be considered the valid one, the previous ones being thenceforth considered annulled.

ART. 14. The character of resident is declared officially, or at the instance of a party, by the respective municipal council.

ART. 15. The municipal council shall officially declare as residents all emancipated Spaniards who at the time of the formation or correction of the registry have resided continuously for two years in the municipal district.

A similar declaration shall be made with regard to the persons who are filling public offices at that time requiring a fixed residence in the district, even though they have not completed the two years.

ART. 16. The municipal council, any time of the year, shall declare every person who requests it a resident, said person not being thereby exempted from paying the municipal taxes which correspond to him up to that date in the town of his previous residence.

The petitioner must prove that he has resided continuously in the district for a period of six months at least.

CHAPTER III.—*Registration.*

ART. 17. It is the duty of municipal councils to make a register of all the inhabitants of their district, stating whether they are residents, denizens, or transients, name, age, status (whether married or single), profession, residence, and other details required by statistics and determined by the government.[1]

ART. 18. Every five years a new register shall be made, which shall be corrected every intermediate year by the official entries or at the instance of a party and by the eliminations on account of legal incapacity, death, or transfers of residence which have taken place during the year.

Residents who change their domicile, the parents and guardians of those who become incapacitated, and the heirs or legatees of deceased persons, are obliged to make the proper report to the municipal council, in order that the elimination may take place.

ART. 19. After the five-yearly registration has been made, or its annual rectification, the municipal council shall make up two lists in abstract, one stating the changes which have taken place during the year and another including all the inhabitants there may be in the district at the conclusion of the work.

These lists shall be published at once.

ART. 20. The registration and the rectifications shall take place in the month of December, and shall be, as well as the lists, at the disposal of all those who wish to examine them in the office of the secretary of the municipal council on working days and during office hours.

In the fifteen following days the municipal council shall receive the complaints which any resident of the district may make against the registry or its rectifications, and shall decide thereon during the rest of the month, entering in the book of minutes the decision adopted with regard to each person interested, who shall immediately be informed thereof in writing.

ART. 21. From these decisions of the municipal councils an appeal lies to the provincial deputation.

The appeal shall be instituted before the mayor within the three days following the written notification of the decision.

The mayor shall forward, without any delay whatsoever, the proceedings to the provincial deputation.

The deputation within the period of one month shall finally decide, in view of the reasons alleged by the persons interested and the municipal council, and shall communicate to the latter its decision, with the reasons therefor, after which, the proper corrections having been made during the following week, the registration shall be declared terminated and the corrected lists shall be published.

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[1] With a circular from the General Government of October 12, 1882, there was forwarded to the municipal councils the form for the register they are to make in accordance with the provisions of this article.

ART. 22. The register is a solemn, public, and authentic document, which shall serve for all administrative purposes.

ART. 23. The municipal councils shall forward to the deputation, in the last month of each fiscal year, a statement of the number of residents, denizens, and transients, classified as may be determined by the Governor-General of the island, for the census of the population.

CHAPTER IV.—*Rights and obligations of inhabitants of municipal districts.*

ART. 24. All persons appealing to the municipal authority have a right to demand of the same a statement, in which there shall be stated the claim or complaint and the date and hour on which it was made.

ART. 25. All the inhabitants of a municipal district have a right of action against the decisions of municipal councils, as well as to denounce and prosecute criminally mayors, aldermen, and members of the assembly of associates in the cases and at the time and in the manner prescribed by the provisions of this law and those of the royal decree and regulations of September 12, 1868.[1]

ART. 26. All the residents of a municipal district are subject to the taxes which may be imposed for the municipal and provincial services, in the manner and proportion determined by this law.

If the town has property owned by the community, the following rules shall be observed for its annual arrangement and distribution:

1. When the property in common can not be equally utilized by all the residents of a town, the enjoyment and benefit shall be awarded at public auction among the said residents exclusively, after the necessary appraisements and its division into lots in a proper case.

2. If the property is susceptible of general utilization, the municipal council shall distribute the products among all the residents, distributing them for the purpose into divisions or lots, which shall be awarded to each person in accordance with any of the three following bases:

By families or residents.

By persons or inhabitants.

By the quota of assessment, should there be any.

3. The distribution, according to residents, shall be made with strict equality to each one of them, without regard to the number of persons their family may consist of or of the number who live with them and are dependent upon them.

The distribution by persons shall take place by allotting to each resident the portion corresponding to him in proportion to the number of resident inhabitants of which his household or family consists.

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[1] By a royal decree of June 21, 1878, issued by the secretary of the interior, refusing the admission of a claim it was ordered that the litigative procedure was proper when administrative resolutions had injured the right of a private party, which can not take place when a contract is in question to which he was not a party; that although by article 25 of the municipal law residents may denounce certain acts of the municipal council, they have not the right nor the authority to impugn the resolutions of the government which condemns the denunciation.

The distribution according to the quota of assessment shall take place among the residents subject to the payment thereof, and awarding to each person the part corresponding in proportion to the quota allotted.

In such case there shall be awarded to the poor residents exempted from the payment a portion not exceeding that which corresponds to the taxpayer paying the lowest quota.

4. In extraordinary cases, and when the requirements of the town necessitate it, the municipal council may order the auction of the so-called lands owned in common among the residents, or to fix the price which each one is to pay for the lot which may have been awarded to him.

The administration, use, and preservation of municipal timber lands shall be subject to the forestry laws in force.

ART. 27. In so far as the municipal financial administration is concerned, as well as the rights and obligations arising therefrom with regard to residents, the following shall be considered as owners of the estates they cultivate, occupy, or administer:

1. The administrators, attorneys, or agents of nonresident owners, without prejudice to the following cases, be they either at the head of an agricultural, industrial, or commercial establishment opened in the district for the account and in the name of the latter, or if they limit themselves to the collection of rents.

2. Farmers, lessees, or coproprietors of rural estates, whether the owners or administrators reside in the district or not.

3. Tenants of town property, when the same is leased to one person only, and its owner, administrator, or agent does not reside in the district.

ART. 28. Foreigners shall enjoy the rights granted them by the treaties or special laws relating to them.

TITLE II.

GOVERNMENT AND ORGANIZATION OF MUNICIPALITIES.

CHAPTER I.—*Municipal councils and municipal boards.*

ART. 29. In every district there shall be a municipal council and a municipal board.

ART. 30. The interior government of every municipal district shall be intrusted to a municipal council composed of—

Mayors.

Deputy mayors.

Aldermen.

The municipal council shall be elected by the residents of the district who enjoy the electoral franchise according to article 40 and in the manner determined by the laws.

ART. 31. It behooves the municipal councils to draw up the budgets, which shall be approved by the municipal boards. It also behooves

the latter to establish and create taxes at the time and in the manner prescribed by this law.

ART. 32. The municipal board shall be composed of—

1. Of all the members the municipal council must have.

2. Of a number of associate members equal to that of councilors.

This assembly shall be designated in the manner mentioned in Chapter III of this Title II.

ART. 33. It behooves the municipal boards to revise and audit the accounts of the municipal councils.

CHAPTER II.—*Organization of municipal councils.*

ART. 34. The census of the population shall determine the number of councilors corresponding to each municipality and their distribution as deputy mayors and aldermen; the number of deputies shall determine the number of municipal subdistricts each district is to be divided into, and the number of residents in each one of said subdistricts shall determine the number of wards, electoral districts, and sections of each electoral district, all in accordance with the following articles:

ART. 35. The number of councilors, subdistricts, and electoral districts shall be adjusted to the following schedule:

	Mayors.	Deputy mayors.	Aldermen.	Total number of councilors.	Subdistricts.	Electoral districts.
Up to 500 inhabitants	1	.....	5	5	1	1
501 to 800	1	.....	6	6	1	1
801 to 1,000	1	1	6	7	2	1
1,001 to 2,000	1	2	6	8	2	1
2,001 to 3,000	1	2	7	9	2	1
3,001 to 4,000	1	2	8	10	2	3
4,001 to 5,000	1	2	9	11	2	3
5,001 to 6,000	1	2	10	12	2	3
6,001 to 7,000	1	3	10	13	3	4
7,001 to 8,000	1	3	11	14	3	4
8,001 to 9,000	1	3	12	15	3	4
9,001 to 10,000	1	3	13	16	3	4
10,001 to 12,000	1	4	13	17	4	5
12,001 to 14,000	1	4	14	18	4	5
14,001 to 16,000	1	4	15	19	4	5
16,001 to 18,000	1	4	16	20	4	5
18,001 to 20,000	1	5	16	21	5	6

For more than 20,000 inhabitants no change shall be made except to increase the number of aldermen by one for every 2,000 inhabitants until the municipal council has the maximum number of thirty councilors.

The subdistricts into which each district is divided shall have a more or less equal number of inhabitants.

ART. 36. Each subdistrict shall be divided into wards when, on account of the number of its inhabitants or on account of local circumstances, it is thus required for the good of the municipal service.

The wards of each subdistrict shall have approximately the same population, and each ward shall be included within one subdistrict.

All suburbs removed from the limits of the town, as well as any other part of the municipal district removed from the said limits, shall constitute a ward, no matter what their population may be.

In each ward there shall be a mayor (alcalde) of the same, appointed by the mayor of the town from among the voters permanently residing in the ward.[1]

The mayor may freely remove mayors of wards.

In the towns referred to in chapter 2 of title 3 of this law, the duties of mayor of a ward shall be discharged by the presidents of the boards, who must be elected as prescribed in the same chapter; and they can not be removed, except for the reasons mentioned in this law, for deputy mayors.

ART. 37. The municipal districts shall be divided into the number of electoral districts which the municipal council may consider advisable, provided said number is not less than the number of deputy mayors; and provided further, that one electoral district does not constitute a part of different subdistricts. In towns not having more than 800 inhabitants one electoral board only shall be established.

The municipal council may divide the electoral districts into the number of sections necessary to facilitate the free exercise of suffrage, provided the number does not exceed that of the ward mayors.[2]

Groups of rural population which, according to this law, form wards, shall constitute a section if they exceed 800 residents.

ART. 38. The first division of the district into subdistricts, wards, electoral districts, and sections shall be made in accordance with the following rules:

1. The municipal council shall order the division, and shall have it published in the *Gaceta de la Habana* and by means of the official newspapers of the province and of the town, or by means of edicts in the absence of the latter.

2. The residents and denizens of the district may, within the following month, to be counted from the date of the publication of the resolution, make such complaints against the same as they may consider proper.

3. Should there be no objections, the resolution shall be considered as final at the end of the period mentioned above; should there be any, the municipal council shall investigate them and forward the same, with its report, together with a certified copy of the resolution of division, to the governor of the province within the fifteen days following the expiration of the period.

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[1] Resolution of the general government of February 4, 1882, ordering, in concurrence with the council of administration, that an appointment of ward mayor must be given to one of the electors of the same ward.

[2] By a royal order from the interior department of April 25, 1887, it was resolved that there exists no legal obstacle if another new distribution of electoral districts should be in force for the biennial renewal of the departing councilors different from the one in force at the time of their election.

4. The governor, after hearing the deputation, which shall examine the data and the objections and shall decide what may be proper with regard to the points referred to in the latter, shall communicate his report within one month from the date of the reception of the proceedings.

ART. 39. After the division of a municipal district has been made, in accordance with the prescriptions of this law, it can not be changed until two years at least have elapsed, and only in case time shows that it does not correspond to the conditions and circumstances above mentioned, and never in the three months preceding any ordinary election.

The proceedings for change shall be instituted at the instance of the municipal council and shall pursue the same course as those mentioned in the foregoing article.

ART. 40. Those persons shall be electors who are such according to the electoral law.

ART. 41. The electors who besides having resided at least four years continuously in the municipal district, possess the qualifications mentioned in the electoral law, shall be elegible.[1]

ART. 42. It shall be so arranged that each electoral district shall elect four councilors, or as near that number as possible. Each elector shall vote for two councilors only when three are to be elected in the electoral district, for three when four are to be elected, for four when six are to be elected, and for five when seven are to be elected.

When this law has been promulgated, the formation of the electoral lists shall be proceeded with in accordance with the prescriptions contained in the foregoing paragraphs, subject with regard to their formation, periods, and other requisites and proceedings to the provisions of the electoral law.

ART. 43. The following can in no case be councilors:

1. Provincial deputies or deputies to the Cortes, and senators.

2. Justices of the peace, notaries, and other persons who fill public offices which have been declared incompatible with the office of councilor by special laws.

3. Those who discharge public remunerated functions, even though they have renounced the salary. Professors at universities or institutes may be councilors in the towns where they discharge their duties.

4. Those who directly or indirectly are interested in services, contracts, or furnishing of supplies within the municipal district for the account of the municipality, province, or State.

5. Debtors as taxpayers to the municipal, provincial, or general funds, who have been judicially notified.

6. Those who have an administrative or judicial suit pending with the municipal council, or with the establishments under its dependency or administration.

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[1] By royal order issued by the department of the interior of March 31, 1887, it was ordered that persons receiving salaries from municipalities could be elected councilors, being obliged, however, to choose one of the positions, which are incompatible.

In order to discharge the duties of deputy mayor or syndic, it is necessary to know how to read and write.

The following may excuse themselves from acting as councilors:

1. Persons over sixty years of age and those physically incapacitated.

2. Persons who have been senators, deputies to the Cortes, provincial deputies, and councilors for two years after having ceased in their respective offices.

Councilors shall cease in their offices if they should at any time not possess all the conditions mentioned in this law.[1]

Each electoral district shall appoint the number of councilors which belongs to the same in proportion to the number of electors.

The sections of each electoral district shall vote for the same number of councilors assigned to the latter.

ART. 44. Municipal elections shall be held in the first two weeks of the month of May.

ART. 45. The municipal councils shall be renewed by half every two years, the oldest councilors in service going out at each renewal.

In cases of ordinary or extraordinary renewals, the election of the councilors shall be made by the same electoral districts which elected the departing ones.

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[1] Resolution of the general government of October 11, 1888:

"In the proceedings for review, instituted by Don Amador de Rojas and Don Mariano Bacallao, against an administrative decision revoking the decision of the municipal council of Placetas, which ordered that five councilors of said corporation discontinue in their offices, the council of administration has deemed proper to issue the following report:

"Your Excellency: The council has examined the data relating to the appeal for review taken by Don Amador Rojas and Don Mariano Bacallao against a ruling of the civil government of Santa Clara, which, in revoking a decision of the municipal council of Placetas, ordered, in accordance with the second paragraph before the last of article 43 of the municipal law, that five councilors of said corporation should discontinue in their offices. The said councilors, namely, Don Enrique V. Villar, Don Agustín Rojas, Don Arcadio Conde, Don Rosendo Perez, and Don Mariano Bacallao, were excluded from the electoral lists:—Rojas by a resolution of the municipal council adopted when the last rectification of the electoral lists was made and the others by virtue of the sentence rendered at the same time by the audiencia of the territory. Based hereon, and understanding that the second paragraph before the last of article 43 of the municipal law was applicable to the case, the governor, who took cognizance of the matter by virtue of an appeal brought by a resident against the municipal council which was favorable to the councilors, made a ruling to the effect mentioned. The sentence of the audiencia being irrevocable, and taking into consideration that, according to article 43 of the municipal law, councilors shall discontinue in office if they should cease to fulfill the conditions stated in that law, and considering that, in accordance with its article 41, persons who are not qualified as electors can not be councilors, it is evident that the said four councilors, by being excluded from the electoral lists, lost said qualification and incurred the case of disqualification established by article 43, as they lacked the condition indicated in article 41. With regard to Rojas, he is in similar circumstances; the ruling of exclusion from the lists made against him by the municipal council, and which was made final, deprived him also of the quality of an elector, so that he was included thereby in the provisions of articles 43 and 41, in common with his associates. On the other

ART. 46. A partial election shall be held when, at least six months before the ordinary elections, vacancies occur which amount to a third of the total number of councilors.

If the vacancies occur after said period, and amount to the number indicated, they shall be temporarily filled, until the first ordinary election, by the persons whom the governor of the province may appoint from among those who had formerly been elected to the municipal council.

ART. 47. The municipal councils shall make a report of the aforesaid vacancies to the governor, who, within ten days exactly, shall order the election held within a period not less than fifteen nor more than twenty days, counted from the time the resolution is communicated to the respective municipal council.

ART. 48. For the purposes of this law, in so far as the series of cessation is concerned, the persons elected shall, in cases of vacancies, be considered as the councilors they substitute.

ART. 49. Mayors shall be appointed by the Governor-General from among the councilors of the respective municipal councils on the recommendation in ternary of the said corporations.

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hand, neither the municipal council of Placetas, nor the councilors interested, with the exception of Bacallao, have complained against the ruling of the governor, and Don Amador Rojas does not appear to be authorized to institute the complaint of which he is the author, or if he does have said authority, it has not been proved. The council, therefore, is of the opinion that the ruling of the governor should be confirmed."

"And His Excellency, on the 4th instant, having approved the same, in accordance with the foregoing ruling it is published in the Official Gazette by his superior order for general information."—Havana, October 11, 1888. Alberto de Quintana.

INCOMPATIBILITIES.

Royal order of September 7, 1871: Orders that the offices of recording clerks of audiencias and clerks of chambers are incompatible with those of councilor and provincial deputy.

Royal order of June 13, 1871: Officers of the army on the waiting list can not be councilors.

Articles 111, 112, and 113 of the organic law of the judicial power: The offices of judges and associate justices are incompatible with those of provincial deputies, mayors, and aldermen.

Royal order of October 18, 1879: The office of municipal *fiscal* is incompatible with the office of councilor.

COMPATIBILITIES.

Royal order of December 11, 1871: The office of solicitor is compatible with that of councilor.

Royal order of April 20, 1872: The husbands of municipal schoolmistresses may be councilors.

By a royal order of June 5, 1882, it was decided, in accordance with the provisions of article 13 of the regulations in force, that the offices of consuls and vice-consuls which are filled by Spanish citizens are compatible with those of provincial deputies and municipal offices. Decision rendered in the case of Don Patricio Sanchez, provincial deputy of Pinar del Rio, appointed consular agent of the Empire of China in said province.

When the Governor-General considers it advisable for the interests of the locality not to accept any of the persons recommended, he may appoint as mayor a person who possesses the qualifications necessary for the discharge of the office, even though he does not belong to the municipality.

The Governor-General may also remove mayors when he considers that good reasons exist therefor.

Mayors shall receive the remuneration assigned to them, to be paid from the municipal budget.[1]

ART. 50. Deputy mayors shall be appointed in the same manner as mayors; but in no case may the appointment be given to a person who is not a councilor. The Governor-General may order their removal and replacement by other councilors.

ART. 51. The mayors shall present themselves, without loss of time, before the municipal council assembled for the purpose, and shall receive possession from the retiring mayor or from the person who is temporarily filling the office.

ART. 52. When the municipal corporation is to be installed, the mayor shall call them for that purpose and shall install the deputy mayors and councilors. The president and the members of the former municipal council shall be present at this ceremony to receive the new councilors, and shall retire after the latter are installed in office.

ART. 53. After the new municipal council has been established under the presidency of the mayor, it shall proceed with the election of one or two councilors, who, under the name of advocate-syndics (procuradores sindicos), represent the corporation in all the suits which may be instituted in the defense of the municipal interests, and shall revise and audit all the local accounts and budgets.

The ballots shall be secret and the votes shall be written on slips of paper, which shall be deposited in a box, those who obtain the highest

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[1] By a resolution of the General Government of July 3, 1879, it was ordered that the power to fix the salary to be enjoyed by mayors, in accordance with the provisions of this article, is of the competency of said government, on the recommendation of the respective corporations, eliminating from the budgets the clause corresponding to the salary of the mayor, if it had not been approved by the superior authority.

Royal order of March 11, 1880: Making a ruling in accordance with the report submitted by the council of State. That the salary assigned by law to mayors has all the qualities of the remuneration or salary enjoyed by other officials of the administration, and that therefore the payment of the said salary in cases of absence or sickness shall be made as if any other employee of the public administration were in question, with the exception of the case when, in accordance with article 113, a temporary mayor is appointed who does not belong to the municipality, in which case said salary shall be divided between both—that is, between said temporary mayor and the regular incumbent of the office.

The royal order of October 18, 1880, interpreted the foregoing one to the effect that neither the deputy mayors nor other members of the municipal council can in any case collect a salary, even though they act temporarily as mayors.

absolute majority of the total number of members present being elected. In cases of ties, it shall be decided by lot.[1]

ART. 54. The municipal council shall immediately fix the days and hours on which ordinary sessions are to be held, which shall not be less than one session per week; after deciding which the inaugural session shall be closed.

ART. 55. On the same day the mayor shall appoint, from among the electors, the mayors of wards. The persons appointed shall hold office until the next renewal of the municipal council, if they are not removed before by the mayor.

ART. 56. The mayor shall report to the municipal corporation in the next session the appointments of mayors of wards referred to in the foregoing article.

ART. 57. In the second session the municipal council shall fix the number of permanent committees into which it is to be divided, intrusting to each one of them all the general business of one or more of the branches which the law places in their charge, and determining the number of members which are to compose the same.

After coming to a decision the election of the members thereof shall immediately be proceeded with in secret ballot and with slips of paper, those who obtain the highest number of votes being elected, ties being decided by lot.

ART. 58. During the course of the year the municipal council may appoint, when it considers it advisable, special committees, which shall be elected in the same manner as the permanent ones, but they shall be discontinued when the commission intrusted to them is concluded.

When a deputy mayor or syndic is elected to a committee he shall be its president.

ART. 59. The councilors and the members of the board of associate members may be reelected.

They shall cease to be such if they incur any of the incompatibilities established.

ART. 60. The office of deputy mayor, syndic, councilor, associate member, and mayor of a ward are gratuitous, obligatory and honorary.

The mayors, the deputies, and the mayors of wards shall use as a symbol of their authority the insignia established by the regulations.

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[1] Circular of August 11, 1879:

"His Excellency the Governor-General, in concurrence with a report of the council of administration, has deemed it proper to decide that whenever there is a tie between councilors proposed for the same position in the ternaries which the municipal councils are to draw up for the appointment of mayors and of deputy mayors, the person who is to fill the corresponding position from those in analogy with what is prescribed by article 53 of the municipal law and article 84 of the provincial law, in treating of the election of syndics and councilors, respectively, shall be selected by lot. Which is published in the official gazette for general information by order of His Excellency.—Havana, August 11, 1879. Joaquin Carbonell, secretary of the general government."

The deputy mayors and aldermen shall not have any special title as such.

CHAPTER III.—*The organization of the municipal board.*

ART. 61. The municipal boards shall be composed of the municipal council and of the associate members in equal number to councilors appointed from among the taxpayers of the subdistrict.

ART. 62. For this purpose all residents may be appointed who are obliged to contribute a quota to the municipal expenses, and where no quota is assessed those who pay a land tax or an industrial, commercial, or professional one.

Persons who are not qualified to be councilors are excepted, however, as well as those who are such at the present time, their associates, and their relatives within the fourth degree, and the employees and clerks of the municipal council.

In towns which do not have over 2,000 inhabitants the exclusion by reason of relationship shall be limited to the second degree.

ART. 63. The appointment shall be made by lot among the taxpayers, divided into sections, in accordance with the following rules:

1. The number of sections shall be determined in one of the first four sessions of the year by each municipal council, taking into consideration the population of the town and the amount and class of wealth of the same, and shall in no case be less than a third part of the councilors.

2. In each section there shall be included the residents or landowners whose professions or trade are more or less related to each other, in accordance with the groupings and classifications made for the payment of direct taxes, in such manner that the members of one taxpaying class do not form part of different sections. Residents who pay taxes for more than one purpose, or are included in two or more industries, shall enter the section they may select.

3. In towns where it is not possible to make any distinction of classes, the payment of taxes of its inhabitants being made for the same reason, or in which there are no industrial branches of sufficient importance to require the formation of a special section, the assessment of the latter shall be made by streets, wards, or parishes.

The same shall be done when any of the sections formed according to the foregoing rule is so large that it in itself constitutes the fourth part of the associate members of the municipal board.

4. To each section there shall be assigned the number of members or associates which correspond to the same in proportion to the amount of taxes paid by all its members.

ART. 64. The municipal council, before the end of the first month of each fiscal year, shall publish the result of the formation of sections, against which any of the persons interested may complain within the period of eight days to the provincial deputation.

The deputation must decide within the following fifteen days, and its decision shall be final for the two following years.

ART. 65. After the formation of sections has thus taken place, the municipal council in a public session shall announce it two days in advance in the ordinary manner, and at least one hour before on the said day shall proceed, after ringing a bell, with the sortition of the associate members to the sections and shall have the result immediately published.

The board must be definitely established within the second month of the fiscal year.

The persons elected shall hold office for the entire respective fiscal year.

ART. 66. The municipal council shall admit and decide within the period of eight days all excuses or objections, making a new sortition if it is proper, without prejudice to the appeal for review to the provincial deputation.

ART. 67. When a vacancy occurs in the number of associate members a new sortition shall take place, with the formalities mentioned in article 65, in order that their number may always be complete.

TITLE III.

MUNICIPAL ADMINISTRATION.

CHAPTER I.—*Powers of municipal councils.*

ART. 68. Municipal councils are financial administrative corporations, and may only exercise the functions intrusted to them by the laws.

Their title is impersonal.

ART. 69. The government and administration of the private interests of towns is under the jurisdiction of municipal councils, subject to the laws, and particularly in all that refers to the following subjects:

First. Establishment and creation of municipal services referring to the arrangement and ornamentation of public roads, comfort and hygiene of the neighborhood, encouragement of its material and moral interests, and security of persons and property, as follows:

1. Opening and alignment of streets and parks and of all kinds of roads of communication.[1]
2. Paving, lighting, and sewerage.
3. Water supply.
4. Promenades and trees.
5. Bathing establishments, laundries, market houses, and slaughterhouses.

[1] By a circular of the General Government of December 29, 1887, the municipal councils were reminded of their duty to strictly observe the regulations of December 22, 1857, in the proceedings relating to the opening and closing of roads and public easements.

6. Fairs and markets.

7. Institutions for instruction and sanitary services.

8. Municipal buildings and in general all kinds of public works necessary for the fulfillment of the services subject to the special legislation on public works.

9. Surveillance and police.

Second. Urban and rural police—that is, all that refers to the good order and surveillance of the established municipal services; care of public roads in general, and cleanliness, hygiene, and health of the town.

Third. Municipal administration, which includes the use, care, and preservation of all estates, property, and rights belonging to the municipality, and to the establishments depending therefrom, and the determination, assessment, collection, investment, and account of all taxes and imposts necessary for the execution of the municipal services.

It is the obligation of municipal councils to construct and keep in repair municipal roads. In so far as rural roads are concerned, the municipal councils shall oblige the persons interested in the same to preserve and repair them.

In order to attain these objects the proper measures with regard to municipal roads shall be adopted by the board of associates, and with regard to the rural roads by a board of the persons interested.

The governors shall see to the fulfillment of this most interesting part of the administration, by virtue of the powers granted them by the laws.

ART. 70. It is the duty of municipal councils to procure, alone or with the assistance of the members, in the manner hereafter expressed, an exact compliance, in accordance with the means and necessities of the town, of the purposes and services which, according to the present law, are intrusted to their action and surveillance, and particularly the following:

1. Preservation and repair of public roads.

2. Rural and city police.

3. Police for security.

4. Primary instruction.

5. Administration, custody, and preservation of all estates, property, and rights of the town.

6. Charitable institutions.

Municipal resolutions relating to fairs and markets, surveillance, police, and security, primary instruction, and charitable institutions require the previous approval of the governor.

In matters which do not come under his jurisdiction they are also obliged to assist the action of the general and local authorities in the fulfillment of that part of the laws which refers to the inhabitants of the municipal district, or which is to be complied with within the same, for which purpose they shall proceed in accordance with the prescriptions of the said laws and the regulations issued for their execution.

ART. 71. For the fulfillment of the obligations of municipal councils, the following are their special powers:

1. Establishment of the municipal ordinances for the city and rural police.

2. The appointment of its employees and agents in all branches in accordance with this law and other special ones.[1]

The agents of municipal surveillance who carry arms shall depend exclusively on the mayor with regard to their appointment and removal.

3. The establishment of personal services.

ART. 72. The municipal ordinances for the rural and town police, which may be issued by the municipal councils for the government of their respective districts, shall not be final without the approval of the governor in concurrence with the provincial deputation.

In case of disagreement, if the municipal council insists on its resolution, the points in question shall be decided by the Governor-General, after consultation with the council of administration.

Neither in said ordinances nor in the regulations and provisions which the municipal councils may adopt for their execution, shall the general laws of the country be infringed.

ART. 73. The penalties which municipal councils may impose for infractions of the ordinances and regulations can only be fines, not to exceed 10 pesos in the capitals of provinces and towns having an equal population, 5 pesos in seats of judicial districts and towns of 4,000 inhabitants, and 3 pesos in other towns, with reparation for the damage done and indemnification for costs, and arrest of one day for each peso in cases of insolvency.

For the collection of these fines the proceedings shall be in accordance with articles 181 (rules 1, 2, and 3), 182, and 184.

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[1] Circular of the General Government of July 14, 1880, ordering that it behooves the municipal council to appoint and remove municipal physicians.

"Under this date the civil government of this province is informed as follows:

"YOUR EXCELLENCY: In view of the communication of Your Excellency of April 21 last forwarding an authenticated copy of the resolution adopted by the municipal council of Güines, under date of the 19th of the previous March, refusing to forward to Your Excellency the proceedings for filling the office of municipal and court physician of said town, as prescribed by the circular of September 30, 1873, because articles 71 and 74 of the municipal law in force confer upon municipal councils the power to appoint and remove all employees and officials paid from their funds, even though they be professional, and that said law in its first additional provision repeals all prior ones relating to municipal government, His Excellency the Governor-General, agreeing with the report of the council of administration, approving the resolution of the said municipal council of Güines, has deemed it proper to decide that, municipal physicians being employees of their respective municipal councils, it behooves the latter to appoint as well as to remove them after the requisites and proceedings established in the municipal law in force. Which by order of His Excellency, I communicate to your excellency for your information and consequent action."

Which, by order of His Excellency, is published in the Gazette for general information. Havana, July 14, 1880. Joaquin Carbonell.

The justice of the peace shall discharge the duties entrusted by article 184 to the judge of first instance.

Against an administrative decision the person fined may appeal to the municipal council and institute the proceedings referred to in article 183, in a proper case.

ART. 74. The appointment and removal of all the employees and clerks paid with municipal funds and which are necessary for the fulfillment of the service entrusted to them, shall be made by the municipal councils, with the exceptions established in this law.

Officials destined to professional services shall have the qualifications and fill the conditions determined in the laws relating to the same.

ART. 75. Personal services are enforced in order to assist in the construction of municipal public works of all kinds; municipal councils have the power to require the same of all inhabitants over sixteen years of age and under fifty, with the exception of those taken care of in charitable institutions, soldiers in active service, and persons incapacitated for work.

The number of days shall not exceed twenty per year nor ten consecutive ones, each day redeemable by the person interested at the rate of pay given laborers in the locality.

With the exception of the public works mentioned in this article, no personal services of any kind can be required, the mayor or deputy mayor requiring them incurring liability.

ART. 76. The municipal councils, with the authority and approval of the governor, may form by themselves and with the adjoining ones associations and communities for the construction and preservation of roads, rural police, care of property owned in common, and other subjects of their exclusive interest. These communities shall be governed by a board composed of one delegate for each municipal council, presided over by the member elected by the board.

The board shall draw up the accounts and budgets, which shall be submitted to the municipal boards of each town, and should they not be approved by all or by any of them they shall be submitted to the governor, who shall decide, hearing the provincial committee.

ART. 77. The Governor-General shall take care to encourage and protect, through his delegates, the associations and communities of municipal councils, for the purposes of security, instruction, assistance, police, construction and preservation of roads, property owned in common, or other services of a similar character. These communities shall always be voluntary, and shall be governed by boards of delegates of the same, which shall alternately meet in the respective seats of the municipal associated subdistricts.

Whenever any complaints are made against the administration of said communities they shall be decided by the Governor-General hearing the council of administration, with the exception of questions of ownership, which are reserved to the courts of justice.

ART. 78. Municipal councils may petition, in so far as matters of their competency are concerned, the Governor, Governor-General, the Government, and the Cortes.

Except when they make complaints against the mayor, the governor, or the deputation, they must do so through the former, and against the mayor, provided they address themselves to the Government or to the Cortes.

If within a period of eight days the two authorities first cited do not take action on representations of municipal councils, the latter may repeat the same in the shape of a direct complaint.

If within a period of two months the Governor-General does not take action upon representations of municipal councils, the latter may repeat the same directly, in the shape of a complaint, addressed to the colonial secretary or to the Cortes in a proper case.

ART. 79. All the resolutions of municipal councils in questions of their competency are final, with the exception of the appeals determined by the laws.

ART. 80. Resolutions referring to the following require the approval of the governor, hearing the provincial committee, in order to be final:

1. Reform and suppression of municipal charitable establishments and institutions of instruction.

2. Pruning and cutting of timber in municipal forests, subject to the laws and regulations.

ART. 81. Alienations and exchanges of municipal property shall be made in accordance with the following rules:

1. Lands remaining over from public roads and granted to private ownership and useless objects may be exclusively sold by the municipal council.

2. Contracts relating to municipal establishments of no use for the service to which they had been destined, and private credits in favor of the people require the approval of the governor, hearing the provincial committee.

3. The approval of the Governor-General is necessary, after reports from the governor of the province and from the provincial committee, for all contracts relating to other real estate and property rights of the municipality.

ART. 82. The authorization of the provincial deputation is necessary in order to institute suits in the name of towns having less than four thousand inhabitants.

The resolution of the municipal council must in all cases be adopted after a favorable report of two lawyers.

No authorization or report of lawyers is necessary to utilize injunctions to retain or recover and those relating to new or old works, nor to institute suits in which the municipal council is the defendant.

ART. 83. Whenever, in any of the cases mentioned in the foregoing article, it is necessary to obtain the approval of the governor of the province or of the Governor-General, it shall be the duty of the mayor

to forward the data within a period of not exceeding eight days, counted from the date of the resolution.

ART. 84. Municipal councils in all matters which, according to this law, are not of their exclusive competency, and in which they act by delegation, shall be governed by the general laws and provisions relating to the same.

ART. 85. Inferior and superior courts can not admit injunctions against administrative rulings of municipal councils and mayors in matters of their respective competency.

CHAPTER II.—*Administration of towns annexed to a municipal district.*

ART. 86. Towns which, together with others, form a municipal district, and have their own land, water, pasture grounds, forests, or any other rights, exclusively their own, shall preserve the private administration over the same.

ART. 87. For said administration they shall appoint a board, which shall be composed of one president and two or four members, all of whom shall be elected directly by the residents of the town and from among them.

For towns of sixty or more residents there shall be four members, and two for towns having a smaller number.

ART. 88. The election of the presidents and members above mentioned shall be made in accordance with the electoral law, but in one day only, and without allowing more than eight days to elapse from the time the municipal council was installed, which shall see to the execution of this precept.

ART. 89. After the three or five members for the board have been elected, the office of president shall be given the person who obtained the highest number of votes, and should there be a tie it shall be decided by lot.

ART. 90. The objections established by this law for municipal offices shall also be applicable to the election of members of the board with relation to the respective town.

ART. 91. The municipal council of the respective district shall supervise the private administration referred to in this chapter, either on its own initiative or at the request of two or more residents of the town interested.

ART. 92. The administration and the inspection above mentioned, as well as the duties and obligations of the board and of its members, shall be governed by the provisions of this law in all that has not been determined by this chapter.

CHAPTER III.—*Sessions and mode of procedure of municipal councils.*

ART. 93. The sessions of municipal councils must be public when accounts, budgets, and other subjects related to the municipalities are in question, and the days and hours on which they are to be held shall be announced in the usual places.

They shall necessarily take place, under pain of nullity, in the town halls, except in cases of force majeure.

ART. 94. The deputy mayors and the aldermen are obliged to be present punctually at all the ordinary and extraordinary sessions, unless prevented for good reasons, which they shall prove in a proper case.

Lack of attendance shall cause a fine to be incurred for each time in accordance with the following scale:

In towns of 20,000 or more inhabitants, 3 pesos.

In towns of over 15,000 inhabitants, 2 pesos.

In those of more than 8,000, 1 peso.

In other towns, 0.40 peso.

This provision is applicable to the members of the municipal board; but the fines shall be for an amount four times as great for the first and double this for the second.

ART. 95. The mayor, the deputies, and the aldermen all have the right of speech and vote in the sessions and resolutions of the municipal council.

They are equally responsible for the resolutions which they authorize with their votes without being permitted for any reason whatsoever to abstain from casting the same.

ART. 96. The municipal council shall be presided over by the mayor. In his absence the deputies shall preside, and in the absence of both, the alderman who is the dean, and then the others in order of age.

The governor shall preside when he is present at the sessions of the municipal council, but shall not have a right to vote.

ART. 97. The mayor may call an extraordinary session when he deems fit, and he must always do so when ordered to by the governor or when it is requested by a third of the councilors.

ART. 98. In every call for an extraordinary session the business to be transacted shall be mentioned, and the municipal council can not take up any other matters at the same session.

The calls shall be made at least one day in advance, except in cases of greater urgency, and the resolutions shall be subject to ratification at the following one.

ART. 99. Every session of an ordinary character, with the exception of the days fixed in accordance with article 54 of this law as well as any extraordinary one, which is not called by the mayor in the manner and under the conditions prescribed in the foregoing articles or in which a question not announced in the call is treated of, shall be null and of no value, and the resolutions adopted at the same shall also be null.

ART. 100. In order to hold sessions the presence of a majority of the total number of councilors which the municipal council must have according to this law is requisite.

If at the first meeting there should not be a quorum for the adoption of resolutions, a new citation shall be made for two days later, stating

the reasons therefor, and the persons present at the same may adopt resolutions, no matter what their number may be.[1]

ART. 101. All questions which are to be passed upon by a municipal council shall first be discussed, and then voted upon.

Questions shall be considered as adopted which one over half of the members present at the session vote for.

In case of tie, voting shall be resumed at the next session, or at the same one, if the question is of an urgent character in the judgment of the mayor; and in case of a new tie, the latter shall cast the deciding vote. If the governor of the province should accidentally preside, the vote of the mayor or of the person acting in his stead shall be the deciding one.

ART. 102. Balloting shall be oral when questions relating to the councilors themselves or to members of their families within the fourth degree are not in question, being otherwise secret, the councilor interested being obliged to withdraw from the session while the matter is under discussion and being voted upon.

ART. 103. The secretary of the municipal council shall draft minutes of each session, in which he shall state the names of the president and of the other councilors present, the questions treated of, and the resolutions adopted relating to the same, the result of the votes, and a list of the oral ones, should there be any.

The opinions of the minorities and their reasons shall always be included in the minutes.

The minutes shall be signed by the councilors who are present at the session, by those present when they are read, and by the secretary.

The minutes of the opening session of each municipal council shall be signed by all those who were present at the same, those not knowing how to sign being mentioned.

ART. 104. The book of minutes of the municipal council is a public and solemn instrument. No resolution which is not explicitly and finally included in the minutes referred to shall have any value whatsoever.

This book shall be made of the proper stamped paper, and all its sheets shall bear the rubric of the mayor and the stamp of the municipal council.

ART. 105. At the end of each month, in the capitals of the provinces, in the seats of judicial districts, and in towns having more than 4,000 inhabitants, and every three months in other towns, the secretary shall draw up an extract of the resolutions adopted by the municipal council during the same period, and, after having been approved by the corporation, it shall be forwarded to the governor of the province for insertion in the official newspaper.

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[1] By royal order issued by the interior department on August 23, 1878, it was declared that when the number of councilors is less, when the session is inaugurated, than half and one of those which, according to the law, the municipal council should have, the corporation can not be considered as legally constituted, nor can it adopt any decision or resolution whatsoever.

ART. 106. The foregoing rules shall be applied to the minutes and sessions of the municipal board. Their minutes shall be kept in different books from those of the municipal council, and with similar formalities, precautions, and requisites, unless otherwise ordered by this law.

ART. 116. The proceedings of examination and discussion shall never give rise to excuses to the municipal councils to delay the fulfillment of the obligations imposed upon them by the laws.

CHAPTER IV.—*Administrative functions of mayors, deputies, syndics, aldermen, and ward mayors.*

ART. 108. The mayor, who is the president of the municipal corporation shall bear its name and represent it in all matters with the exception of the powers granted syndics.[1]

ART. 109. The mayor shall—

1. Preside over sessions and direct discussions, with a right of vote.

2. Take care, under his liability, that the laws and provisions of its hierarchical superiors are fulfilled by the municipal council.

3. Communicate, in the name of the municipal council, with the necessary authorities and private parties.

ART. 110. The mayor shall also, as the chief of the municipal administration—

1. Publish, execute, and order the resolutions of the municipal council complied with when they are final and there is no legal reason for their suppression; proceeding, if it is necessary, by judicial compulsion, and imposing fines, which shall in no case exceed those established by article 73, and arrest in cases of insolvency.

2. Suspend the execution of resolutions of municipal councils in the cases prescribed by articles 167 and 168 of this law.

3. Forward to the governor the resolutions of the municipal council which require the superior approval to become final, and publish, execute, and enforce them after they obtain said approval.

4. Forward statements made by municipal councils in accordance with the provisions of article 78.

5. Direct all that relates to the town and rural police, issuing for the purpose the proclamations and provisions he may deem proper in accordance with the ordinances and general regulations relating to the matter.

6. Direct and supervise the conduct of all the employees of the city and rural police, punishing them with suspension from office and salary, not to exceed thirty days, and recommend their removal to the municipal council when they can not do so in person.

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[1] By a resolution of the General Government, in accordance with a report of the council of administration, a complaint made by the municipal council of Havana was declared improper, because it was presented outside of the legal period, for the administrative notification of resolutions must be counted from the date they are communicated to the corporations or to the private parties.

7. Exercise all the duties proper to the office of supervisor and chief of the investment of municipal funds, and of its accounting system.

8. Inspect, expedite, and direct, financially and administratively, the works, charitable institutions, and establishments of public instruction paid for with municipal funds, subject to the laws and provisions governing the matter.

9. Take care that the services relating to army equipages and lodgings and other public charges are faithfully rendered.[1]

10. Preside over public sales and auctions for sales, leases, and municipal services, excepting legal provisions to the contrary.[2]

11. Communicate with the governor and with the other authorities and corporations of the province in all questions of their governmental and administrative competency, doing so through the former when they have to communicate with the governors of other provinces or with the Governor-General, and discharge all the duties intrusted to them by the laws and regulations.

ART. 111. Where there is only one deputy the mayor and the deputy shall each one have under his charge one of the subdistricts into which the municipal district is divided.

Where there is more than one deputy the subdistricts shall only be divided among the deputies.

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[1] Royal order of March 23, 1883, deciding, in accordance with the council of state in full, that the payment for municipal barracks is not an obligation of the municipality. Resolution issued on account of the refusal of the municipality of Havana to pay the rental of the barracks for the militia.

[2] The laws in force in this island on auctions and public sales of services of the provincial deputations, and of the municipal councils, are the royal-decree regulations of January 4, 1883, and the royal order of August 11, 1882, on the publication of advertisements of auctions.

See the following resolution of the General Government:

MUNICIPAL COUNCILS.

The section on litigative matters of the council of administration has deemed proper to make the following report:

"YOUR EXCELLENCY: In view of the claim instituted before this section by Don Carlos de Zaldo, in the name and with the authority of Messrs. Rafecas & Co., as executor of the estate of Don Felipe Lombeda, against a resolution of Your Excellency, which confirmed prior decisions of the municipal council of Havana and of the civil government of the province, by which the plaintiffs were refused the payment of interest which they demanded of said corporation on account of the delay in the payment of a certain sum, the value of hydraulic lime supplied for the works of the canal of Vento, it is pertinent to report on the origin of the suit that, as was indicated in the introduction of this consultation, the complaint is directed against a ruling of Your Excellency, which refused to the plaintiff the payment of interest on account of the delay in the payment of a certain sum which the municipal council owed them for the supply of hydraulic lime for the works of the canal of Vento; that in the opinion of the section the claim was not admissible, giving its reasons therefor, either because the plaintiff has not established his identity or because contracts executed by the administration may be a matter of litigation, it is necessary not only that they involve a work or public service, but that the latter are the direct and immediate subject of the contract, which was not

ART. 112. The deputy mayors shall each one of them discharge in their district the functions entrusted by the law to the mayor, under the direction of the latter, as the superior chief of the municipal administration.

Ward mayors are under the orders of the deputies, and shall discharge that part of the administrative functions which the latter may delegate to them.

ART. 113. Before absenting himself from his district a mayor requires permission from the governor; and if in granting the same he should not appoint a temporary mayor, the proper deputy, according to his numeration, shall substitute the former during his absence.

Deputies and aldermen require the permission of the municipal council to absent themselves from their district for more than eight days; but in urgent cases the mayor may authorize the absence of the deputies, informing those who are to replace them.

Even though the absence is to be less than eight days, the deputies and councilors shall communicate it to the mayor in writing.

ART. 114. Ward mayors can never absent themselves from the ward in their charge for more than twenty-four hours without permission from the mayor, who shall appoint a person to replace them during their absence.

ART. 115. Deputy mayors shall be replaced by the oldest aldermen, and the rest, according to the order established by article 96.

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the case in the actual matter, and that the person representing the plaintiff has impugned said opinion, alleging that the character with which the plaintiff company brought the litigative appeal was acknowledged by the municipal council and furthermore shown in the administrative proceedings, and that, by the royal decrees of December 25, 1869, and of May 5, 1876, there had been declared that the supply of materials for public works could also be the subject of administrative litigation, for which reason contracts executed with relation to the same were a proper subject for administrative litigation. Whereas the provision of article 60 of the regulations of December 30, 1840, are absolute, and that according to the same no suit which lacks the requisites of the documentary proof of the identity which a person appearing in a suit as a party representing another one claims, shall be proceeded with under pain of nullity. Whereas the plaintiff has not supplied the lack indicated, notwithstanding that his attention was called thereto in the opinion of the section. Whereas legislation in various decisions relating to competency laid down the doctrine which was mentioned in the said opinion with regard to the propriety of litigative jurisdiction in the subject of contracts executed by the administration. Whereas although the plaintiff alleges that the supply of materials for public works constitutes a public service, according to two royal decrees, aside from the vagueness of the terms of the citation, which has not permitted its exactness to be verified, it would always be necessary to prove that the subject of the contract in question was the supply of material for a public work, and then it would be possible to determine if the administration was competent to take cognizance of the suit or not. Whereas this justification has not been made by the plaintiff, notwithstanding the precept of article 55 of the said regulations of December 30, 146. The section, as a definite opinion, believes that this suit is not admissible.

"And in accordance with the foregoing opinion I declare the suit in question inadmissable and the administrative resolution appealed from final. Havana, January 4, 1888. Sabas Marin."

ART. 116. Councilors can not absent themselves without permission from the municipal council on days of ordinary or extraordinary sessions, nor for a longer period than that intervening between two ordinary sessions.

Leaves of absence shall only be granted simultaneously to one-fourth of the total number of councilors.

ART. 117. Councilors shall discharge their functions within the municipal district to which they belong, without being obliged to leave the same in the discharge thereof.

CHAPTER V.—*Secretaries of municipal council.*

ART. 118. Every municipal council shall have a secretary, to be remunerated from its funds.

The appointment shall be made by the governor, on the recommendation in ternary of the municipal council, after competition.

ART. 119. In order to be a secretary it is necessary to be a Spaniard, of age, to be in the full enjoyment of civil and political rights, and to possess an elementary education.

The following can not be regular nor temporary secretaries:

1. Councilors of the same municipal council.
2. Notaries and public clerks, as long as they discharge the functions proper to these offices.
3. Employees in office of all classes.
4. Private parties or professional people who have contracts or engagements for services with the municipal council or with a community of residents.
5. Those who, directly or indirectly, are interested in services, contracts, or in the furnishing of supplies within the municipal district on account of the latter or on account of the province.
6. Those who have an administrative or judicial question pending with the municipal council or with the establishments under its dependency or administration.
7. Debtors to the municipal funds as taxpayers.

The office of secretary is incompatible with all other municipal offices.[1]

ART. 120. Mayors may suspend secretaries by giving to the governor a report with the necessary documents for his information and approval. The removal shall be valid when it is resolved upon by two-thirds of the total number of councilors, in which case the governor shall be informed, a copy of the minutes being forwarded to him.

The governor, for grave reasons, may also suspend or remove secretaries of municipal councils, reporting to the Governor-General.

From the decision of the governor in the two cases mentioned, the person interested may appeal to the Governor-General, who shall decide, hearing the council of administration.

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[1] By a royal order from the department of the interior of June 22, 1886, it was decided, in accordance with the council of state, that councilors of the same municipal council can not be regular nor temporary secretaries.

ART. 121. The following are the obligations of secretaries of municipal councils:

1. To take part, without the right of speech or vote, at all the sessions of the municipal corporation, to inform the same of the correspondence and proceedings, in the manner and order prescribed by the president.

2. To draft the minutes of each session, read them at the beginning of the following one, and, after having been approved, have them transcribed faithfully in the book destined for this purpose, taking care to collect the signatures, as prescribed by article 103, and placing his full signature in the proper place.[1]

3. To prepare the proceedings for the works of the committees and the resolution of the municipal council.

4. To make a note above his signature on each record of proceedings of the decision of the municipal council.

5. To draft the minutes of the orders and resolutions of the municipal corporation and of the committees in a proper case.

6. To prepare the proceedings, make memoranda of the resolutions, and draft the minutes of the decisions of the mayor when there is no special secretary for the purpose.

7. To issue certifications of all the official acts of the municipal corporation, and of the mayor when there is no special secretary, and to issue any other certifications which may be proper.

The latter, however, in order to be valid, require the countersignature of the mayor.

8. To direct and supervise the employés of the office of the secretary, of which he is the chief.

9. To assist boards of experts, without special remuneration, in the formation of assessments and restorations.

10. Any other duties intrusted to them by the laws or which the municipal council confers upon them within the sphere and purpose of their office.[2]

ART. 122. Where there is no archivist, the municipal archives shall be under the custody of the secretary. He shall draw up an inventory

[1] By a decision of the supreme court of November 11, 1878, it was resolved that secretaries of municipal councils who issue copies of minutes of sessions making it appear in the same that councilors were present thereat when they were not, and that therefore the signatures of the same do not appear in the minutes, commit the crime mentioned in article 314 of the penal code, even though the act did not cause any damage.

By decision of the same court of June 28, 1879, it was resolved that the crime mentioned in No. 7 of article 314 of the penal code was committed if a certificate of minutes was issued, if the latter were not entered in the book of sessions of the municipal council.

[2] By a royal order of July 9, issued by the interior department, it was ordered that secretaries of municipal councils are not liable for mistakes of the same; but if they are the cause of a delay in the rendition of services, they deserve the temporary suspension which the governor may consider it proper to decree.

of the papers and documents and shall complete it each year with an appendix, of which, as well as of the inventory, he shall forward a copy, with the countersignature of the mayor, to the provincial deputation.

ART. 123. In municipal councils where there is no auditor, it shall be the duty of the secretary to keep the books of receipts and expenditures of funds, authorize warrants, and enter drafts.

ART. 124. Municipal councils may impose upon their secretaries the disciplinary corrections which they may deem proper and which are within their powers for the offenses or abuses which they may commit in the discharge of their office and which do not give rise to criminal proceedings.

ART. 125. The secretaries of the municipal councils shall also be those of the mayors, but in the capital of the province and in towns of an equal or higher number of inhabitants the mayor has the power to appoint a special secretary, whose salary shall be fixed by the municipal board.

ART. 126. The secretaries of mayors, where there are such, shall, in so far as their liability is concerned, be equal to those of the respective municipal council, with the exception of the differences consequent upon their duties.

ART. 127. The secretary of the municipal council shall also be the secretary of the municipal board.

TITLE IV.

THE MUNICIPAL TREASURY.

CHAPTER I.—*Municipal budgets.*

ART. 128. The provisions of the decree of September 12 and the instructions of October 4, 1870, issued for the government of the financial administration and accounting of the colonies, are applicable to the municipal treasury.

The municipal fiscal year shall be the same as the one in force for the budgets and general accounts of the island of Cuba.

ART. 129. The municipal councils shall each year draw up a budget which shall include all the expenses to be made for any reason whatsoever and the revenues to cover the same. For this purpose they shall establish from among their members one of the permanent committees mentioned in article 157.

ART. 130. The ordinary annual budgets shall necessarily contain the requisite sections, according to the resources of the municipality, in order to attend to and fill the obligations referred to in the first paragraph of article 70 of this law; the services established between those which, according to article 69, come under the jurisdiction of municipal councils; the expenses which, by virtue of the second paragraph of the said article 70, are clearly and finally designated in the laws as obligatory, besides the following:

1. Personnel and material of the dependencies and offices.

2. Pensions, annuities (censos), and judicial expenses, which are to be paid from municipal funds, as well as acknowledged and liquidated debts, and interest and consequences of contracts.

3. Protection of trees.

4. Preventive measures and measures for the extinguishment of fires and life-saving measures in maritime towns.

5. Subscription to the official bulletin of the province in all the municipalities, and to the *Gaceta de la Habana* in the seats of judicial districts and towns having more than two thousand inhabitants.

6. Allotment of the municipality in the provincial assessment.

7. One section for emergencies and public calamities, not to exceed ten per cent of the budget for expenses.

8. Printing, announcements, and other necessary expenses to make municipal acts public.

ART. 131. The expenses included in the municipal budgets shall be covered with the income, surtaxes, and revenues authorized by this law and other provisions in force.

ART. 132. The revenues shall be:

Rents and products accruing from property, rights, or capitals which, for any reason whatsoever, belong to the municipality or to the charitable institutions or institutions of instruction and other similar ones depending on the same.

Municipal taxes or imposts on determined services, works, or industries, as well as the benefit of city and rural police, and fines and indemnifications for the infraction of the municipal ordinances and police regulations.[1]

A general assessment among all the residents and property owners in proportion to the means or powers of each one, to cover the municipal services wholly, or in the part not covered by the foregoing resources.

Tax on articles of food, drink, and fuel.

Municipal councils of towns having more than two hundred thousand inhabitants, if they renounce the general assessment, may make use of other imposts, surtaxes, or revenues besides those enumerated in the laws, with the approval of the government, which, before granting the same, shall hear the council of state.[2]

ART. 133. For the fulfillment of the second paragraph of the foregoing article the following rules shall be observed:

1. The establishment of taxes can only be authorized on those works and services paid with the municipal funds the benefit of which will not redound to the residents in common, but to determined persons or classes, provided the persons interested have not previously acquired

[1] By the royal orders of May 5 and 17, 1882, members of the army and navy were exempted from the payment of quotas on account of municipal assessments.

[2] By a resolution of the Governor-General of March 31, 1880, it was ordered that after the municipal taxes had been approved by the authorities they should in the future be considered permanent.

the same for a valuable consideration, as well as on industries which are established in public ways or on land or properties of the town, it being understood that the municipal council can not secure the monopoly or any privilege whatsoever over said services except in so far as necessary for the public health.

2. In accordance with the provisions of the foregoing article the establishment of taxes on the following objects may be authorized:

Benefit and provision of waters for private use.

Sewers, bathing establishments in public waters.

Rural police.

Institutions of secondary, superior, or special instruction.

Licenses for the construction of buildings.

Slaughterhouses.

Public booths and chairs in squares, streets, fairs, markets, and promenades.

Rental of weights and measures.

Inspection of weights and measures or reweighing.

Interment in municipal cemeteries.

Public carriages and hearses and wagons for transportation in the interior of the towns.

Issue of certifications of acts of the municipal council or of documents existing in its archives.

Shares granted by the laws in the issue of documents of surveillance, hunting and fishing licenses, and navigation and freight transportation on rivers, and water privileges.

And other similar ones.

3. In no case can the following services be subjected to taxation:

Benefit and provision of waters for communal use.

Public lighting.

Sidewalks and paving.

Public surveillance.

Charity.

Public instruction.

Street cleaning, without prejudice to the benefits which may result.

And others of a similar character.

4. In the same manner, the establishment of taxes on the sale of spirituous or fermented drinks may also be authorized, either in establishments or fixed places, or by peddlers, carriers, or by the manufacturers or proprietors themselves; on cafés, restaurants, saloons, inns, boarding houses, and other establishments of the same character; on bathing establishments; on all kinds of public spectacles, and on permitted gambling and raffles, in so far as granted by the laws to municipal councils.

5. The taxes on the slaughterhouses shall come under the heading of consumption taxes, should there be any, and can not altogether exceed 25 per cent, in accordance with the second paragraph, rule 1,

article 138. Where there is no consumption tax on meats, there can only be imposed by way of slaughter tax an amount which shall never exceed 10 per cent of the value of the head of cattle.

6. The taxes mentioned in rule 4 of this article, with the exception of those relating to bathing establishments, public spectacles, gambling, and raffles, shall not be authorized when any consumption taxes exist, but the establishments mentioned may at any rate be subjected to a special tax on account of surveillance, which shall not exceed five per cent of the amount they pay as a direct tax.

7. The taxes on industries which are carried on in public roads shall not exist jointly with the general assessment, without prejudice to which the quotas which correspond for this reason to the manufacturers may be charged with five per cent by reason of rental or use of the road.

8. The quotas imposed on the industries mentioned in this law, which are included in the schedules of the industrial, commercial, and professional tax, shall not exceed 25 per cent of the amount indicated in the latter; and

9. The payment of fines and indemnifications shall be made in the special paper which the treasury shall issue for the case, and which it shall deliver to the municipal councils who request it, charging on the same, by reason of the stamp, a tax not exceeding 10 per cent of its nominal value.

ART. 134. The creation of any of the taxes mentioned shall be resolved upon by the municipal councils in union with the board of associates, the record of proceedings being forwarded through the mayor to the governor, who, after a report from the provincial deputation, shall forward it with his own to the Governor-General for the proper resolution.[1]

ART. 134. In order that the general assessment referred to in the third paragraph of article 132 may be authorized, the municipal council shall institute proceedings in accordance with the following rules:

1. The assessment shall be extended to the following persons for all the utilities they may have in the district, irrespective of their nature:

First. To the residents of the municipal district.

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[1] Ruling of the council of administration of January 17, 1888, declaring a litigative suit instituted by Don José Granda y Miranda against a resolution of His Excellency the Governor-General inadmissible, and by which it was declared that the municipal council of Cienfuegos should not collect the slaughter and corral taxes, except in the manner ordered on February 14, 1880, because the administrative authorities in matters relating to taxes, as well as in any others, may adopt general provisions with regard to the form as well as to the essence of said imposts, and that they never give rise to a litigative appeal, and that the foregoing doctrine is applicable to the case in question, because in the appeal it is only desired that the establishment of a municipal tax which is supposed to be illegal in its foundation and in its form be declared null, and that therefore the declaration brought by way of litigative proceedings should in any case have been taken to the hierarchical superior of the Governor-General by way of administrative proceedings, or to the colonial department, and that questions of jurisdiction, such as those of public order, can and must be instituted and decided at any stage of the suit.

Second. To owners living in other towns who, according to article 27, are considered residents.[1]

Third. To those who, according to the same article, have the character and are considered as owners.

Fourth. To farmers, lessees, or coproprietors of agricultural estates who do not reside in the district.

The profits accruing from pensions, interest on capitals, salaries, or state revenues shall be imputed to their possessors in the town where they reside.

Persons who have been declared paupers, those taken care of in charitable institutions, and members of the army and navy are exempted from the assessment.[2]

2. In order to fix the income of each taxpayer, the following bases shall be observed:

First. On owners of city property there shall be assessed as taxable income the amount of the rents they receive or may hereafter receive for this purpose, taking into consideration the nature and conditions of the estates, if they are occupied by them personally or by others who do not pay rent.

Second. Owners who cultivate agricultural estates, or in the proper case the farmers, lessees, or coproprietors, shall be assessed a sum amounting to one and a half times the amount of the rent produced by the estate, or which it might hereafter produce, according to the average rents of the town, should said estate be rented.[3]

Third. When the owners of estates, be they either rural or urban, are not residents of the district, the assessment shall be reduced by one-

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[1] *Assessments.*—By a resolution of the General Government of July 4, 1882, in accordance with the council of administration, it was resolved that there should be considered as the net product assessable on rural estates for the contribution of the assessment, in order to silence the complaints of owners residing elsewhere, a sum equal to one and a half times the rent derived or which might in the future be derived, and that in order to fix said sum the lands should be classified according to their character into ten classes or categories, the following quotas being assigned to every caballería of each class: First, 150 pesos; second, 135; third, 120; fourth, 105; fifth, 90; sixth, 75; seventh, 60; eighth, 45; ninth, 24, and tenth, 6—without sugar estates or other rural estates being obliged to contribute for any other reason to the assessment, from which are excluded the "*patrocinados*" and the cattle which constitute the establishment of said estates and which are employed in their work and cultivation.

[2] *Assessments.*—By royal order of May 14, 1882, it was decided that members of the clergy are obliged to contribute with the quotas which correspond to them in the general assessments resolved upon by municipal councils to cover the deficits in their budgets.

[3] The circular of the General Government of June 6, 1883, ordered a faithful observance of that of July 4, 1882, and that the assessment of rural estates should be proceeded with in accordance thereto, and that in computing the one and a half times referred to therein it should be understood by the municipal councils that an amount equal to the value of the rent represents the condition and value of the ground, and that the other half represents the capital and the sum invested in the encouragement of production.

fifth of the sum which, according to the foregoing bases, it should have amounted to.

Fourth. To those who receive salaries, pensions, annuities (censos), or interests of any class or from any source, the amount of these sums shall be assessed as net income.

Fifth. Persons included in the industrial, commercial, and professional tax shall be assessed the net profit assessable in proportion to the quota they pay by reason thereof, which shall not be less than five nor exceed twenty times the amount of said quota, in accordance with the scales approved for each class.

Sixth. Day laborers and journeymen, and in general all those who live upon a fortuitous salary, shall be assessed upon a third part of the sum which, according to the customs of each locality, their income may reach during the year, on an average.

Seventh. When it is not possible to ascertain the income of any resident, the assessment shall be made without prejudice to the provisions of article 27 and rule 3 of this article, taking into consideration the external marks of wealth, such as the value of the furniture, rental of the house, number of servants, and other similar ones.

Eighth. From the assessed income of each resident or property holder, there shall be deducted in every case the amount of the direct tax he pays the State.

3. The determination of the taxable income shall be made by the taxpayers themselves, divided into sections in the manner prescribed by chapter 3, title 2, of this law.

Each section shall draw up a statement, including the income of all its members, specifying, in so far as possible, the nature and number of the objects which produced the same.

ART. 136. After the proceedings have been instituted in the manner stated they shall be forwarded by the mayor to the Governor-General, who shall, before deciding, hear the provincial deputation.

The approval of the governor, in accordance with the recommendation of the municipal council and the report of the provincial deputation, shall be final.

In case of disagreement with any of said corporations, the proceedings shall be forwarded to the Governor-General, who shall decide, hearing the council of administration.

ART. 137. After the assessment has been approved by the governor, or by the Governor-General in a proper case, its collection shall be proceeded with, the following rules being observed:

1. The members of each section of taxpayers, proceeding as syndics and meeting with the municipal council, shall examine and compare the statements of income, deciding the complaints which may arise and fixing the total amount assessable.

The board shall assess the amount corresponding to each section either by so much per cent in proportion to the total appraised income or by fixed classes.

2. The syndics of each section shall make and communicate the assessment to the members of the same. The municipal council shall decide the complaints which this assessment may cause.

3. All the operations of appraisement and assessment shall be published in the ordinary manner, and shall furthermore be communicated in the office of the secretary of the municipal council to every person interested who requests it.

4. From the decisions of the municipal council and of the board of appraisement an appeal lies to the provincial deputation. The appeal must be instituted within the fifteen days following the publication, and it shall not hinder the payment of the quota assessed until a definite resolution is reached.

These complaints, as well as those which may be brought on account of the work of each section, must be based on concrete, precise, and determined facts, adducing the proofs necessary for their justification.

5. The assessment shall include an increase, not to exceed 6 per cent of the total quota, for expenses of distribution, collection, and quotas which can not be collected.

Taxpayers who pay their quotas every three months, six months, or every year in advance into the treasuries of the respective municipalities are exempted from the payment of this increase, and in the second and third cases they shall be credited so much per cent per annum, which may be fixed by reason of the advanced payment.

6. Owners and farmers, lessees, coproprietors, or tenants shall arrange by means of private contracts the proportion to be paid by each one of the quota assessed the latter, on the estates, and the manner and time of reimbursing each other for this quota. In the absence of contracts the tenants may, when they make the payment of their rent, retain the full amount, and the farmers, lessees, or coproprietors two-thirds of the quota.

ART. 138. For the fulfillment of the fourth paragraph of article 132 proceedings shall be instituted, the following rules being observed:

1. The municipal council and the associates united in a board shall determine the subjects which are to be the object of the consumption tax as well as the schedules which are to govern its collection and the manner of doing so.

The schedules shall in no case exceed 25 per cent of the average price of the article in the respective locality, according to its class.

2. The tax can only be placed upon the articles of food or of drink which are consumed in each town. Any other tax on the same which might embarrass traffic, circulation, and sale, no matter under what name it may be desired to establish the same, is absolutely prohibited.

3. In towns where customs houses are established foreign articles, after being nationalized by the payment of the customs duties, may be subjected to the municipal consumption tax within the prescriptions of this law, and on the value which they have in the market, by deducting the amount of said customs duties.

ART. 139. After the proceedings have been instituted in the manner stated, they shall be forwarded by the mayor to the governor, who, hearing the provincial deputation, shall forward them with his report to the Governor-General for the proper resolution.

ART. 140. After the consumption tax on any of the provisions approved has been established, the municipal council shall fix the individual quotas and their collection.

The assessment shall include an increase not to exceed 6 per cent of the total quota for the expenses of distribution, collection, and quotas that can not be collected.

Against the decision of the municipal council and the board of associates an appeal lies in the shape and manner prescribed by rule 4 of article 137.

ART. 141. At the end of the fiscal year the open credits which have not been invested during the course of the same are annulled.

During the period of extension the operations of collection of the taxes imposed shall be concluded, as well as those for the liquidation and payment of the services effected during the year. The balances remaining after this period shall be the subject of an additional budget, after the consequent liquidations which shall be concluded during the following month.

ART. 142. When, in order to cover unforeseen expenses, satisfy some debt, or for any other important object not determined in the ordinary budget, the resources included in the same are not sufficient, the municipal councils shall draw up an extraordinary budget in the same manner and with the same procedure fixed for the ordinary ones.

ART. 143. The debts of towns which are not secured by pledges or mortgages can not be judicially demanded of municipal councils.

When any town is sentenced to the payment of a sum, the municipal council, in the period of ten days after the sentence has been carried out, shall draw up an extraordinary budget, unless the creditor agrees to postpone the collection, in order to permit the entry in the ordinary following budgets, of the sums necessary for the payment of the principal and interest stipulated.

ART. 144. If the resources at the disposal of a town are not sufficient to cover its debts, or the municipal council does not consider it possible to collect the increased quotas imposed upon the residents, and the creditors are not satisfied with the means offered them to liquidate their debts, the proceedings shall be forwarded through the mayor to the governor, who, hearing the provincial deputation and the persons interested, shall order what is proper so that the payments can be made without prejudice to the competency of the superior and ordinary inferior courts to decide regarding the legality and preference of the credits.

ART. 145. Resources originating from taxes of a fortuitous and transitory character can not be applied to the payment and fulfillment of permanent services or obligations.

ART. 146. The project of the budget, either ordinary, additional, or extraordinary, with the report of the syndic, shall be exhibited to the public in the office of the secretary of the municipal council for the period of fifteen days from the date on which the announcement is made in the ordinary form.

ART. 147. The municipal council shall draw up the budget, which shall be approved by the municipal board without prejudice to the provisions of article 156.

ART. 148. The municipal boards shall meet, after a citation and announcement, at the times and in the manner prescribed by article 65.

ART. 149. In order to adopt resolutions, the vote of an absolute majority of the total number of members who compose the board is necessary. If this number does not meet at the first session a new call shall be issued for eight days later, at which a majority of those present may adopt resolutions.

In towns of less than 800 inhabitants the vote of one over half of those present shall form a quorum, if they reach at least the fourth part of the total number of residents who have a right to compose the board. In case this number should not assemble, the provisions of the foregoing paragraph shall be observed.

ART. 150. Within the second month of the fiscal year the mayors shall communicate to the governor the approved budget, in order that legal extralimitations, should there be any, may be corrected.[1]

The municipal boards may appeal from the resolutions of the governor by forwarding the appeal to the governor for transmission to the Governor-General, who shall decide without loss of time, first hearing the council of administration.

If fifteen days before the beginning of the fiscal year the Governor-General should not have issued his resolution, the budgets approved by the boards shall be in force with the corrections introduced by the governor. The resolutions of the board may also be appealed from to the governor when any provisions of the law are infringed thereby, but only with relation to the part containing the infraction.

The Governor-General shall decide, without loss of time, first hearing the council of administration.

All the municipal councils shall forward to the Governor-General, and the latter to the colonial department, extracts of the budgets of receipts and expenditures definitely approved.[2]

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[1] By a resolution of the Governor-General of September 26, 1879, it was ordered that the municipal councils must present in March their respective budgets to the provincial governments.

[2] By a resolution of the General Government of November 13, 1879, it was ordered that the said extracts should be forwarded by chapters and in duplicate. A circular of the General Government of June 21, 1883, recommended an exact compliance with the provisions of this article relating to the publicity of the budgets, transmission to the civil government, and of the statements of receipts and expenditures to the General Government.

ART. 151. The mayor may authorize the execution, making a report to the governor, and, without prejudice to the subsequent appeals which may be proper according to this law, of the budgets drawn up to attend to the sanitary requirements of absolute urgency, in time of public calamity, and works of an urgent character, when the amount does not exceed 50 cents for each resident, nor one-third of the ordinary budget.

ART. 152. In order to effect the collection, the judicial measures regarding direct and indirect taxpayers issued in favor of the treasury shall be applicable.

CHAPTER II.—*Collection, distribution, and accounting of municipal funds.*

ART. 153. The collection and administration of the muncipal funds are in charge of the respective municipal councils, and shall take place through their agents and delegates.

ART. 154. The distribution and investment of the funds shall be resolved upon every month by the municipal council, subject to the budgets.

ART. 155. Payments shall be ordered by the mayor.

The supervision shall be in charge of the auditor, where there is one, and in his absence the office shall be filled by an alderman elected by the municipal council.

In towns the budget of expenses of which is not under 20,000 pesos there shall be an auditor of municipal funds, appointed by the municipal council from among the persons who possess the qualifications determined by special regulations.

The same regulations shall prescribe all that refers to the classes and salaries of said officials.

The removal of municipal auditors who are appointed in accordance with their provisions shall appertain to the municipal councils, but it shall not be ordered, except for serious reasons and after proceedings. The persons interested may appeal from the decision to the governor, who shall decide, hearing the provincial committee.

ART. 156. The municipal councils shall appoint and freely remove the treasurers and agents for the collection of all the revenues and taxes of the municipality.

The same corporations shall also fix the remuneration which said employees are to enjoy and the guaranties they are to give.

If there should not be in the town any person wishing to take charge of the custody of funds, the office of depositary shall be declared as appertaining to the council and obligatory, but it shall not require the giving of a guaranty, and the expenses which may arise shall be for the account of the municipality.

ART. 157. The agents for the municipal collection are liable to the municipal council, and the latter is civilly liable to the municipality in case of negligence or omission duly proven, without prejudice to the rights which may be exercised against the agents.

ART. 158. All the municipal funds shall necessarily be deposited in the treasury of the municipal council, the three keys of which shall be in the custody of the depositary, the comptroller, and the supervisor.

ART. 159. The auditor or supervising councilor, assisted if necessary by the secretary and other clerks of the municipal council, shall draw up the accounts of each term at the proper time, which shall be submitted, with the documents justifying them, to the municipal council after having been audited by the syndic.

ART. 160. After the accounts have been definitely fixed by the municipal council they shall be forwarded, with a report of the syndic and the documents justifying them, for auditing and revision to the municipal board.

The latter, on the first working day of the second quarter of the fiscal year, shall assemble in the building of the municipal council, under the presidency of the mayor, with the presence of the secretary, and shall appoint a committee from its members, who, after examining the accounts, shall make a report within a period not to exceed fifteen days.

During the fifteen days preceding the assembly, the accounts shall be exhibited in the office of the secretary, and any resident may examine them and put his observations in writing, which shall be communicated to the board.

ART. 161. The sessions which the board dedicates to the discussion of the report of the committee shall be presided over by a member elected by the same.

ART. 162. After the accounts have been examined and discussed and all the proceedings instituted and the data procured which may be considered necessary by the board, it shall assemble to resolve upon and adopt its definite decision by a vote of the absolute majority.

This report shall be subscribed by all those present, no matter what their private opinion may be, which they may, however, record by means of a written vote, the original of which shall be attached to the record of proceedings, this fact being stated in the minutes.

ART. 163. The municipal board shall assemble in the first fifteen days of February, in order to revise and audit the accounts of the previous fiscal year in the manner prescribed by the foregoing articles.

ART. 164. The approval of the same, when the expenses do not exceed 20,000 pesos, appertains to the governor, after hearing the provincial committee; and if they exceed said sum their approval appertains to the court of accounts of the kingdom, after a report of the governor and of the provincial committee.[1]

ART. 165. The municipal council shall publish, at the beginning of

[1] By a resolution of the General Government of October 27, 1880, it is ordered that said superior center is the channel through which the accounts corresponding to the municipalities of that island are to be forwarded to the court of accounts of the kingdom.

each quarter, a statement of the collection and investment of its funds during the preceding one.

In public works which may be made by administration, there shall be published every week a memorandum of the expenses incurred, detailing the amount paid for wages, material, traders, contractors, site of the work, and other similar circumstances.

In the office of the secretary there shall be exhibited all the year round, on working days and during office hours, to any resident, and specially to the associate members of the municipal boards, the original accounts and documents from which the municipal council shall permit memoranda to be made, as well as copies of the same.

Accounts which involve more than 20,000 pesos shall be printed in an abstract, which shall include the report of the board and the remarks of the municipal council, which shall be placed on sale to the public.

ART. 166. The municipal councils shall forward to the governors a full copy, certified by the secretary, with the countersignature of the mayor, as well as copies of the budgets and accounts definitely approved, with the literal minutes of the municipal board.

TITLE V.

APPEALS AND LIABILITIES ARISING FROM THE ACTS OF MUNICIPAL COUNCILS.

CHAPTER I.—*Appeals from the decisions of municipal councils.*

ART. 167. Without prejudice to the provisions of article 110, the mayor is obliged to suspend in person or at the instance of any resident of the town, the execution of the decisions of the municipal council in the following cases:

1. When questions are involved which, according to this law and other special ones, do not come under the jurisdiction of the municipal council.

2. For delinquency.

The reasons for the suspension shall be given in either case, stating concretely and precisely the legal provisions on which it is based.

In cases of incompetency, infraction of the law, prejudice of the general interests, or danger to public order, the mayor shall suspend the decisions of the municipal council, reporting thereon to the governor for the proper resolution.

ART. 168. The mayor shall also suspend the execution of the decisions referred to in the first paragraph of the foregoing article when thereby the civil rights of a third person might be injured, be he a resident or not of the town.

The suspension in such case shall only be granted when requested by the person interested, complaining at the same time against the decision.

ART. 169. The complaint authorized by the foregoing article shall be brought before the mayor within a period of thirty days, counted from the date of the publication of the resolution.

The mayor, under his personal liability, shall forward the appeal with his report within the period of eight days to the governor, who shall decide, hearing the provincial committee.

ART. 170. Persons who consider themselves injured in their civil rights by the resolutions of municipal councils, even though their execution has been suspended or not suspended by virtue of the provisions of the foregoing articles, may object to the same by means of a complaint made to the judge or court of competent jurisdiction, according to what may be provided by the laws, taking into consideration the character of the matter.

The judge or court taking cognizance of the matter may suspend by a preliminary ruling the execution of the resolution appealed from at the petition of the person interested, if it has not already been suspended, according to the provisions of article 168, when in his or its judgment it is proper and convenient in order to avoid a grave and irreparable injury.

In order to make this complaint a period of thirty days is granted after the notification of the resolution or the communication of the suspension in a proper case, and if said period has elapsed without any complaint having been made, this suspension is raised as of course and the decision adopted.

ART. 171. If any decision has been suspended or appealed from by virtue of the provisions of the foregoing articles, the mayor shall forward the data to the governor of the province within the period of eight days for the proper purposes.

In case the suspension took place on account of delinquency, the governor shall forward the data within the same period of eight days to the judge or court.

ART. 172. When the resolution refers to questions which are by this law, the provincial law, or by other special ones, not of the competency of local corporations or authorities, the governor, after hearing the provincial committee, and leaving the suspension of the resolution in force, shall forward the proceedings to the Governor-General for his subsequent resolution.

ART. 173. When the Governor-General believes that the suspension is improper, he shall immediately raise the same without further proceedings, revoking the resolution of the governor of the province.

In a contrary case he shall forward the proceedings to the council of administration, and, after hearing its opinion, he shall decide what may be proper.

He shall also decide by himself, and under his liability, when the urgency of the question does not admit of further delays.

The reasons for the resolution shall always be stated, and shall be

published in the Gazette of Havana and in the official newspaper of the province.

ART. 174. From the resolution of the Governor-General an administrative litigative appeal lies, in the manner determined by the laws.

CHAPTER II.—*Dependency and liability of councilors and their agents.*

ART. 175. Municipal councils, mayors, and aldermen are subject to the authority and administrative direction of the governor of the province in all matters which the law does not intrust to them exclusively and independently.

The Governor-General is the superior chief of municipal councils and the only one authorized to transmit to them the direction of the Government, which they must fulfill in accordance with the laws.

ART. 176. The municipal councils, mayors, and councilors incur liability—

1. For a manifest infraction of the law in their acts or resolutions, either making use of powers to which they have no right or abusing their own.

2. For disobedience or disrespect to their hierarchical superiors.

3. For negligence or omission which may result in damage to the interests or services which are under their custody.

ART. 177. The liability shall be demandable before the administration or before the courts, according to the nature of the action or omission which gave rise thereto, and shall only be extended to the members who took part in the same.

ART. 178. Without prejudice to the provisions of articles 49 and 50, regarding mayors and deputy mayors, when the latter or the aldermen of a municipal council are guilty of acts or omissions administratively punishable, they shall incur, according to the cases, the penalties of warning, reprimand, fine, or suspension.

ART. 179. A warning is proper in cases of error, omission, or slight negligence, which is not repeated and if the damage caused thereby can be easily repaired.

Reprimands are proper in cases of second offenses, already corrected, and in cases of extra limitation of authority, and abuse of powers, and negligence, the consequences of which are not irreparable or serious.

A fine is proper, provided the laws and general provisions in accordance to the same fix it, and in cases of repetitions of offenses, punished with reprimands, and in extralimitations, abuse of authority, negligence, or serious disobedience, which do not require suspension nor give rise to criminal liability.

ART. 180. The maximum of the quota of the fines which the governors may impose on mayors, deputy mayors, and aldermen for the offenses which they respectively commit, and according to the pro-

visions of the present law, shall be in proportion to the number of councilors of each town, as follows:

Number of councilors.	Mayors.	Aldermen.
	Pesos.	*Pesos.*
5 to 7	10	2
8 to 10	15	2.40
11 to 14	20	5
15 to 18	25	8
19 to 21	30	10

ART. 181. For the imposition and collection of fines the following rules shall be observed:

1. No fine shall be imposed without a resolution in writing stating the reasons therefor.

2. The ruling shall be communicated in writing to the person fined, and a receipt shall be issued him on its payment.

3. The fines and penalties shall be collected in the corresponding stamped paper.

4. The fines must necessarily be paid from the personal funds of the persons fined.

5. The fines shall be extended to all the members of the municipal council who, according to this law, are responsible for the act or the resolution which gave rise thereto.

ART. 182. For the payment of all fines a period shall be granted in proportion to the amount of the same, and which shall not be less than ten days nor more than twenty, at the expiration of which judicial compulsion against the delinquent persons is proper. The delinquency shall be fined by not more than 5 per cent daily of the total amount of the fine, without ever exceeding double the amount of the latter.

ART. 183. The person interested may complain against the imposition of a fine to the same governor, requesting that it be revoked, stating the reasons justifying it.

From the ruling of the governor confirming the fine imposed, an appeal lies on account of an error of form to the court of administrative litigation, subject to the laws.

After the fine has been definitely declared as improper, the return of the amount thereof to the person interested shall be ordered.

ART. 184. No writs of attachments for the collection of fines shall be administratively issued.

When the persons fined do not pay the fine notwithstanding the judicial compulsion, the governor shall address a communication to the judge of first instance of the judicial district, stating the cause which gave rise to the imposition of the fine and the amount and liquidation of the latter, and requesting his authority to enforce the same.

The judge shall proceed to the collection of the fine through the proceedings of judical compulsion.

ART. 185. The governors of the provinces may suspend mayors, giving a report to the Governor-General within the period of eight days and stating the reasons therefor.

The Governor-General shall unrestrictedly raise the suspension or order the removal of the mayor without further remedy.

ART. 186. The governors may also suspend deputy mayors and aldermen when they commit serious acts of extralimitation of a political character, and especially in the following cases:

1. To have given publicity to the act.
2. For inciting other municipal councils to commit the same.
3. For causing a disturbance of the public order.

They may also order the suspension when the deputies and aldermen commit serious acts of disobedience, insisting therein after having been reprimanded and fined.

ART. 187. The suspension of deputies and aldermen shall not exceed four months.

If this period has elapsed without the institution of a suit or administrative removal having been ordered, the persons suspended shall return to the discharge of their functions, the persons who took their place discontinuing the same.

ART. 188. The governors of the provinces shall forward to the Governor-General the proceedings of suspension within the period of eight days.

The Governor-General, after consultation with the council of administration and without loss of time, shall raise the suspension or order the administrative removal.

Against this resolution a litigative administrative appeal lies.

ART. 189. In case criminal liability exists the Governor-General shall forward the record to the court of first instance of the judicial district to which the municipal council of which said persons are members belongs.

The judges and courts shall apply in these cases the provisions of the penal code.

ART. 190. After the suspension has been raised by the Governor-General, in accordance with article 188, or the persons interested have been absolved from criminal liability, they shall retake possession of their offices, if during the proceedings it should have been proper for them to have discontinued therein in accordance with article 45, the provisions of article 187 being observed with regard to them.

ART. 191. Councilors judicially or administratively removed shall be disqualified to discharge similar functions again for six years at least.

ART. 192. The vacancies which occur in the municipal council on account of legal suspension and removal of its members shall be filled in the manner prescribed by article 46.

ART. 193. The suspension and removal of ward mayors appertains exclusively to mayors.

The suspension shall not exceed fifteen days. The fines which may be imposed upon the same shall be reduced to half of those prescribed for councilors.

The criminal liability which they may incur by reason of their acts shall be enforced before the judge of first instance, according to the provisions of article 189.

The raising of the suspension or the judicial absolution, in a proper case, does not give them a right, but only qualifies them again to be reinstated in office.

ART. 194. All the agents of the municipal council appointed and paid by the same shall obey its orders and are administratively liable to the same in accordance with this law, and judicially to the courts for the crimes and offenses they may commit.

ART. 195. Besides the administrative appeals established by this law, any resident or property owner of the town has a right of action to the courts of justice in order to denounce and criminally prosecute mayors, aldermen, and associates whenever in the establishment, distribution, and collection of taxes or imposts they have been guilty of fraud or of illegal exactions, and more especially in the following cases:

1. If any of the councilors or associates, during the year they are such, pay a quota lower by way of assessment, tax, or license, compared with the year preceding the discharge of their office, the total amount assessable being equal or higher, unless they prove that their wealth has diminished sufficiently to justify such reduction.

2. When the total products of the assessments and taxes distributed exceed the amount mentioned in the budget and the 6 per cent surtax authorized by rule 5 of article 137 of this law.

3. When the quotas fixed by the taxes are higher than the law allows.

4. Whenever any kind of imposts not included in the budget are established and collected.

The courts of justice, after the act has been proved, and without prejudice to the provisions of the penal code, shall make the following declarations:

First case. Imposition of a double quota upon the guilty parties.

Second and third cases. Annulment of the assessment, in so far as it exceeds the amount authorized, and return of the taxes collected, with a fine equal to the excess conjointly imposed upon the guilty councilors and associates.

Fourth case. Annulment of the tax imposed, and return of the amounts collected, with a fine equal to their value, demanded in the manner mentioned in the foregoing case.

TITLE VI.

POLITICAL GOVERNMENT OF MUNICIPAL DISTRICTS.

FIRST AND LAST CHAPTER.

ART. 196. A mayor is the representative of the Government and as such shall exercise all the powers intrusted to him by the laws, under the direction of the governor of the province, as is determined by the law, in all that refers to the publication and execution of the laws and general provisions of the supreme Government or of the General Government or of the governor of the province and the deputation, as well as in all that refers to public order and to the other functions intrusted to him.

ART. 197. In all that relates to the political government of the municipal district the authority, duties, and liability of the mayor are independent of the respective municipal council.

ART. 198. Deputy mayors, in their respective sections, shall always act by delegation and under the direction of the mayor as the representatives of the government in the same manner as the mayor does in the municipal district.

ART. 199. Ward mayors, in their respective wards, exercise the functions of the political government when, in accordance to law, they are delegated thereto by the mayors or deputy mayors, in all cases complying with the provisions of the former and of the governor of the province.

ADDITIONAL PROVISIONS.

1. All prior laws and provisions relating to municipal government are hereby repealed.[1]

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[1] Circular of the General Government of August 31, 1878, informing that the first of the additional provisions of the municipal law repeals the royal decree of February 26, 1867, relating to the exaction of direct taxes.

In the proceedings instituted by the provincial deputation of Santa Clara consulting as to whether the first one of the additional provisions of the municipal law in force in this island repeals the royal decree of February 26, 1867, by virtue of which municipalities have been up to the present time receiving the direct taxes on rural, city, and industrial property, his excellency the Governor-General, after hearing the opinion of the council of administration, has deemed proper to resolve the following:

1. That the first one of the additional provisions of the municipal law in force in this island repeals the royal decree of February 26, 1867, and that therefore the municipal councils can not continue to exact the direct taxes which by said royal decree had been granted them on rural, city, and industrial property.

2. That the taxes which are cited in article 132 of the municipal law are the quotas referred to in the eighth rule of article 143 and in the fourth paragraph of article 132.

3. That all the receipts enumerated in article 132 of the law and detailed in article 133, subject to the order fixed in the same, are ordinary receipts of municipalities.

4. That the prescriptions of articles 136 and 137 are applicable to the proceedings

2. The governor shall issue in accordance with this law the regulations which may be necessary for its execution.

TRANSITORY PROVISIONS.

1. The call of the present municipal councils shall be proceeded with as soon as possible in accordance with this law and with the electoral law of the Peninsula, the Governor-General issuing the provisions which may be necessary for the purpose.

2. Until the publication of the electoral law referred to in article 40, the persons designated in the article of the same number of the municipal law of the Peninsula as taxpayers shall be electors, provided they pay a quota of 5 pesos and the other ones fixed in the said article.

The persons designated in article 41 of the said municipal law of the Peninsula shall be elected.

A true copy.

R. GALBIS,
Secretary of the General Government.

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which, according to article 135, are to be instituted for assessments, and that provincial deputations in reporting on said proceedings must see to it that all the formalities established in the law are observed in the same.

5. That each municipal council shall immediately proceed with the institution of the assessment proceedings prescribed by article 134 of the law, adhering entirely to the provisions of the said article and of article 136 on the subject, in order that they may be executed in time to draw up the budgets of the following fiscal term of 1881–82, taking into consideration this class of revenue.

6. That the municipal councils which have not as yet approved the general assessment may continue to exact, during the current fiscal year of 1880–81, the taxes on rural, city, and industrial property authorized by the royal decree of February 26, 1867, being obliged in the following term of 1881–82, and in the subsequent ones, to discontinue the exaction of said taxes and to receive the revenues arising from the assessment; and

7. That this General Government shall fix, at the proper time, the maximum rates which may be levied on each class of property in the general assessment.

Which I have the honor of communicating to Your Excellency by order of His Excellency, so that what is directed may be duly enforced.

May God preserve Your Excellency many years.

Havana, August 31, 1873.

JOAQUIN CARBONELL.

To His Excellency, the Civil Governor of the province of ——.

APPENDICES.

ELECTORAL LISTS.

Decree of the General Government of August 9, 1878, ordering the renewal of the municipal councils, and issuing rules for the better enforcement of what has been ordered.

In compliance with article 2 of the decree of this General Government, dated March 1 last, the total renewal of the municipal councils shall be proceeded with subject to the provisional municipal law ordered promulgated in this island by a royal decree of June 21, and published in the Gazette of Havana of the 30th of the same month, the following provisions being observed therefor:

ARTICLE 1. The formation of the lists of electors and of eligibles for the elections of municipal councils and of provincial deputations shall conform to the provisions of the electoral law of August 20, 1870, modified by that of December 16, 1875, and shall have as a basis the general poll of the inhabitants by right drawn up by virtue of the royal order of July 6, 1877, with the changes which have taken place from January 1 up to the present time and any other ones which may be proper, taking into consideration that, for this time, the condition of two years' continuous residence as the head of a family with a household in order to be an elector shall not be required, and neither four years in order to be eligible, which said electoral law requires in its articles 40 and 41; and to change furthermore said articles, to the effect that in order to be an elector or an eligible in all towns of 100 or more residents, it is necessary to pay 5 pesos per annum as a taxpayer for any reason whatsoever by way of direct tax.

ART. 2. The formation and publication of the lists must be effected by the 15th of September next, and the claims of inclusion or exclusion, which may be brought by residents having a right thereto before the municipal council, must be made within the three days following, until 12 o'clock midnight of the 18th.

ART. 3. From the 18th to the 25th, inclusive, of the said month of September the municipal councils shall pass upon the said claims.

ART. 4. From the 26th to the 28th, inclusive, persons who believe themselves injured by the resolution of the municipal council may complain to the council of administration acting as the provincial deputation, delivering their petitions to the civil governor of the province, who shall forward the same without any delay whatsoever to this General Government, which shall in its turn forward them to the council, which corporation shall pass upon them during the first fifteen days of October.

ART. 5. The appeals taken to the audiencia shall be delivered by the persons interested to the governor of the respective province, who shall forward them without delay to the audiencia, and the latter shall pass upon them, hearing the parties interested and the department of public prosecution in the first fifteen days of November.

ART. 6. From the 25th to the 30th of said month of November the final lists shall be published, and the electoral tickets shall be distributed. The election shall be held on the 6th, 7th, 8th, and 9th of December, in the manner prescribed by law.

The count shall take place on the 10th instant in the electoral dis-

tricts divided into sections, and on the 11th the general count of the municipal district.

ART. 7. From the 12th to the 15th there shall be exhibited to the public the names of the persons elected and the objections which may be proper shall be received; and on the 16th the municipal council shall assemble in extraordinary session with the commissioners of the general board of examination of votes, and they shall decide on the objections presented.

ART. 8. Up to the 25th the council of administration shall pass upon the appeals which may be presented against the resolutions of the extraordinary boards and they shall be returned to the municipal councils, which shall take possession of their offices on the 1st day of January, 1879.

ART. 9. If, for any reason whatsoever, the council should not have decided the appeals by that day or said resolutions should not have been received by the municipal councils, the persons elected and proclaimed by the latter and by the general board of examination of votes in the extraordinary session of December 16 shall take possession in towns where there exists a municipality at the present time, as well as in those newly created, without prejudice to what may be proper in view of the resolution of the council of administration.

ART. 10. The new municipal councils, when they assemble on the 1st of January proximo, shall recommend to my authority in ternary the mayor and the deputy mayor as prescribed by the law in its articles 49 and 50, in the meantime the councilor who may have obtained the highest number of votes presiding temporarily over the municipal council, and if two or more councilors received an equal number of votes, the senior in age shall preside until I designate a person to fill the first one of said offices.

ART. 11. The civil governors of the provinces, to whom I recommend the greatest zeal in all that refers to the observance of this decree, shall take care as soon as the general examination of votes has taken place in each one of the municipalities of the province in their charge, and as soon as the objections against the same have been presented, to forward to this Government a list of the names of the councilors elected, stating the protests or objections instituted before the council of administration in the absence of provincial deputations.

ART. 12. The elections for provincial deputies shall take place from the 15th of January on. A special decree shall establish clear provisions to carry them out.

ART. 13. The office of the secretary of this General Government shall issue the instructions necessary for the better enforcement of this decree, and it shall speedily decide the doubts which the civil governors of the provinces may entertain.

Havana, August 9, 1878.

ARSENIO MARTINEZ DE CAMPOS.

LOANS.

Royal order of June 30, 1880, resolving that municipal councils may contract loans, cases in which they must do so, and rules issued therefor.

The colonial secretary communicates to His Excellency the Governor-General of this island, under date of June 3 last, the following royal order:

YOUR EXCELLENCY: I have informed His Majesty the King (whom God preserve) of the letter from Your Excellency of March 14 last,

requesting information as to whether municipal councils may contract loans and the manner of doing so. All that is stated to Your Excellency by several municipal councils and by the council of administration of that island has been noted. And, taking into consideration (1) that the municipal law of 1846 empowered municipal councils to contract loans with the intervention of the Government by reason of the supervision it exercised over popular corporations with regard to the local rights and interests; (2) that the silence observed on the subject by the latest legislation of 1867 and 1870, applied to Cuba and Porto Rico, should be interpreted as inspired by the opinion that the local corporations, to which is intrusted the government and administration of its rights and interests, are in a status of local independence, and giving to the greater number of their resolutions a final character, unless general interests are involved or interests of third persons, thus requiring the interference of the Government or of its representatives in the provinces; (3) that from this special character of the new laws there is deduced that municipal councils may take refuge in the contraction of loans as a means of satisfying their obligations; (4) that the section of government of the council of state has fixed in this respect, as jurisprudence, that when a loan does not affect the real estate of the municipality, or the property rights or bonds of the debt referred to in article 80 of the law of the Peninsula, there is no reason for the Government to grant or refuse authority to contract the loan, because it is an ordinary resolution over which the Government has no jurisdiction; but this is not the case when the contract may involve the property or the rights mentioned in the said article on account of the necessity of selling the mortgages created, or for any other reason whatsoever, it then being the duty of the Government to grant the authority, the approval of the same being necessary for resolutions affecting said properties; (5) that in accordance with article 134 of the municipal law the constitution of taxes by the municipal councils must always be approved by Your Excellency after certain proceedings, as the only competent authority to authorize loans, no matter what their character may be; without the circumstance of the law not foreseeing the same, being an obstacle to their authorization by Your Excellency, and which must be communicated to this department for the purposes of the high inspection which appertains to the same in all branches of the public service; (6) that the law in conferring upon the authority of Your Excellency the approval of loans, it also empowers you to fix the conditions under which they are to be contracted for the payment of debts as well as for the raising of funds for other municipal requirements; (7) and, finally, that while special rules applicable to the matter are approved, Your Excellency is informed, in a royal order of this date, that it is advisable to adopt the rules which you recommend in your letter of March 14, namely, (1) that the loans be resolved upon by a majority of the municipal board; (2) that the provincial deputation, the council of administration, and the government of that island report on the proceedings, and (3) that the resolution be of the exclusive competency of Your Excellency, making a report to this department. His Majesty the King (whom God preserve) has deemed proper to order that Your Excellency be informed in accordance with the opinion of the council of state in full, (1) that the municipal law in force does not oppose municipal councils contracting the loans they may consider necessary in order to attend to the requirements of the municipality, and (2) that the competent authority to approve and authorize loans is Your Excellency, and that the institution and resolution of the proper proceedings must be subjected for

the present to the same rules you recommend in your official letter of March 14 last, your decision being communicated to this department.

And His Excellency having ordered the enforcement of the foregoing royal order, it is published in the official gazette, supplemented with the rules which are to be observed for the fulfillment of the same.

Havana, July 2, 1880.

JOAQUIN CARBONELL,
Secretary of the General Government.

RULES CITED.

1. The loan is to be resolved upon by a majority of the municipal board.

2. The provincial deputation, the government of the province, and the council of administration must report on the proceedings.

3. The resolution of the matter shall be of the exclusive competency of the Governor-General.

With regard to the conditions to which loans are to be subject, two classes may be stated:

1. Loans destined to the payment of debts.

2. Loans destined to the raising of funds in order to attend to the various requirements and especially for the construction of works of public utility.

The loans of the first class may consist in the emission of obligations to a sufficient amount, each one reduced in order that they may be applied to the payment of all the debts to be satisfied, and the interest which the obligations are to bear can not exceed the average of the legal interest on money during a number of years equal to that for which the amortization of the loan is to be continued.

The loans, the object of which is to raise funds for the construction of works or to liquidate debts which can not be satisfied with obligations, must be contracted by means of a public auction, in which the amount of interest of the issue shall be the subject of the bids, whether they are to be issued at par or on the rate of the issue, if the interest is previously fixed, with subjection to the document of conditions relating to the provisions in force on the subject.

The municipal board, in instituting the proceedings requesting authority to negotiate loans, must state concretely each and every one of the purposes to which the funds obtained by virtue of the loan are to be destined and the amount of the same, as well as the manner and the period in which the amortization is to take place and the annual sums required thereby and for the payment of interest, and if the latter may be obtained from the revenues of the ordinary budget or whether extraordinary taxes are to be established or an increase in the assessment.

PROVISIONAL PROVINCIAL LAW OF THE ISLAND OF CUBA.

PROVISIONAL PROVINCIAL LAW OF THE ISLAND OF CUBA.

TITLE I.

PROVINCES, THEIR TERRITORY AND INHABITANTS.

ARTICLE 1. The territory of the island of Cuba and the adjacent ones is divided for their administration and government into provinces, as determined by the law of territorial division.

ART. 2. A province is composed of all the municipal districts included within its limits.

ART. 3. No change of any kind whatsoever shall be made in the limits of a province except with a hearing and with the consent of the municipal councils and deputations interested and of the council of state.

Should any of these corporations and the supreme Government fail to agree, the change shall be the subject of a law.

ART. 4. The provisions contained in Title I of the municipal law are applicable to the inhabitants of provinces in what relates to their status and rights.

TITLE II.

CIVIL ADMINISTRATION OF PROVINCES.

CHAPTER I.—*Provincial authorities.*

ART. 5. The following are the administrative authorities of provinces:

1. The governor.
2. The provincial deputation.
3. The provincial committee, with the character and duties determined by article 63.

ART. 6. The governor of a province is appointed and removed by the supreme government, as well as all the employees who, under the orders of the former, are to discharge the duties which are not reserved to the deputation and to the provincial committee.

ART. 7. The provincial deputation shall be composed of the deputies elected by the electors of the municipalities in accordance with article 40 of the municipal law.

Each judicial district shall elect three provincial deputies.

If those who are to be appointed according to this rule do not reach the number of twelve, the number of eligibles shall be completed in order to reach this number in the judicial districts which have the greatest population. If those which the province is to elect exceed twenty, the number of the eligibles shall be reduced in the districts which have the lowest population.

The General Government shall at the proper time publish the number of provincial deputies which each judicial district is to elect in accordance with this provision.

ART. 8. The provincial committee shall be composed of five members appointed in accordance with this law.

CHAPTER II.—*Duties of the governor.*

ART. 9. It behooves the governor of a province as the superior chief of the administration to—

1. Preside over the provincial deputation and the committee whenever he is present at their sessions, with a right to vote.

2. Authenticate the minutes of the same.

3. Communicate and execute the decisions of the deputation and of the committee and see to their exact and punctual fulfillment.

4. Act in the name and represent the province in all its judicial matters, reports, correspondence, and all kinds of communications.

5. Inspect the offices of the province and municipal councils, verifying the condition of their treasuries, archives, and accounts, and see that the laws and general provisions as well as the decisions of the deputation are complied with; also see to their execution and prepare all matters it may have to consider. In virtue thereof he shall issue the proper orders, and in cases of omission he shall decide what he may deem best, as well as in cases of negligence or opposition from those charged with their execution, informing the Governor-General of the island of all these matters.

6. Suspend the decisions of the provincial deputation and of the municipal councils when it is proper according to this law and to the municipal law, and exercise the powers which the same and the other laws in force grant him.

7. Suspend from their offices the provincial deputies, mayors, deputy mayors, and aldermen in the cases and manner prescribed by this law and by the municipal law.

8. Supplement the provincial and municipal action either by appointing the deputation and municipal councils whenever they do not meet, or completing their number whenever they do not meet in a sufficient number to adopt resolutions, or supplementing the duties of the same corporations should they refuse to execute them, and in any case submitting a report to the Governor-General of the island.

ART. 10. The governor may direct to the deputation the statements he may consider proper on which he is obliged to pass.

ART. 11. The governor shall very specially see that public order is preserved within the territory of the province, for which purpose the military authorities shall give him their assistance whenever he requests it.

ART. 12. The governor in his acts as the representative and delegate of the government shall act in accordance with the laws and the regulations and provisions which the latter may issue by virtue of its powers.

ART. 13. The Governor-General shall designate the person who is to substitute the governor of the province in his absence or sickness. If the absence is from the capital but not from the province, the governor shall continue discharging his office from the point at which he may be, without prejudice to which the administrative chiefs and the secretary shall dispatch the mere routine matter, communicating directly with the Governor-General in urgent cases.

ART. 14. The office of governor is incompatible with every other provincial or municipal office of any kind whatsoever, without prejudice to the provisions of the preceding article.

CHAPTER III.—*Organization and mode of procedure of the provincial deputation.*

ART. 15. The division of the provinces into electoral districts shall be made by the supreme Government, hearing the respective deputations.

ART. 16. Each province shall be divided into the number of electoral districts equal to the number of provincial deputies said province is to elect in accordance with the provisions of article 7. Each district shall appoint one deputy only.

ART. 17. No municipality shall constitute a portion of different electoral districts.

ART. 18. For the division of the province into districts and the designation of the towns to be the seat of each one, the deputation shall draft a project which shall be published in the respective province and in the Gazette of Havana one month before the proposal is forwarded to the Governor-General. During this period the governor of the province shall receive the claims and remarks which, by reason of the division, may be made by the municipal councils and by the residents, said claims and remarks being forwarded by the said governor with his report and the project of the deputation to the Governor-General of the province within the eight days following the expiration of the period.

The Governor-General shall forward the project with his report to the colonial department by the first mail.

The colonial department, first hearing the council of state, shall fix the division of the districts with the designation of their respective seats, within the shortest period possible.

After the division and the designation have been made, they can not be altered except by virtue of justified proceedings, which shall be passed upon by the colonial department, hearing the council of state.

ART. 19. All persons having the necessary requisites to be deputies to the Cortes and who reside within the province may be provincial deputies.

The following can not be provincial deputies in any case whatsoever:

1. Deputies to the Cortes.
2. Mayors, deputy mayors, and aldermen.
3. Employees of the State, province, or any of its municipalities holding office.
4. Persons directly or indirectly interested in services, contracts, or the furnishing of supplies within the province and for account of the same, of the State, or of the municipalities.
5. Persons holding public offices which by special laws are declared incompatible with that of provincial deputy.
6. Persons engaged in administrative or judicial litigation with the deputation or with the establishments subject to and under the administration of the same.[1]

The office of professor in a university or in an institute in the seat of the province shall be compatible with that of provincial deputy.

The same persons to whom this right is granted may excuse themselves from holding the offices of councilors, according to article 45 of the municipal law.

ART. 20. The election of provincial deputies shall take place during the first fifteen days of the month of September.

ART. 21. The electoral districts and sections shall be the same as those which serve for the municipal elections.

ART. 22. The deputies-elect shall present their certificates of election in the office of the secretary of the deputation eight days before that on which the sessions are to begin. On this day, without necessity

[1] According to a royal order of September 7, 1871, the offices of clerk of a chamber and of recording clerk are incompatible with the office of provincial deputy.

According to a royal order of July 12, 1871, the offices of provincial deputy and register of property are incompatible.

of previous call, the deputies who may have presented their certificates shall meet under the chairmanship of the governor and shall proceed to the temporary organization of the deputation.

ART. 23. The provincial deputation shall be temporarily organized under the chairmanship of the oldest member, and the two youngest amongst those present shall act as secretaries.

ART. 24. After the deputation has been temporarily organized, and during the same session, it shall elect two committees, each composed of three members; the first committee shall examine the certificates already presented and those that may be subsequently presented by the interested parties; the second committee shall examine the certificates of the members composing the former.

Both committees shall immediately present their reports to the provincial deputation, which, in view thereof, shall proceed instantly to definitely pass upon all the claims and protests arising from the electoral proceedings.

ART. 25. After the certificates against which there is no protest affecting the legality of the election are approved, and in order to definitely organize itself, the deputation shall proceed to draw up a ternary of members from its body, which shall be forwarded to the Governor-General in order that the latter may appoint the president of the corporation from among the same.

Immediately thereafter the corporation shall elect from among its members a vice-president and two secretaries, to act as such at all the sessions to be held until its renewal.

The Governor-General is not required to accept the persons recommended, and in such case he may appoint another member of the deputation to the presidency.

The deputies who may not have presented their certificates for the final organization shall be considered as having renounced the office. The deputation shall declare the vacancy and shall communicate the same to the governor, a partial election being then held in the manner and at the time prescribed by the law.

ART. 26. Should the deputation order the annulment of a certificate, it shall communicate its decision to the governor, who shall order its immediate publication.

This decision shall be final, and in consequence thereof the partial election shall be held, if the interested party does not appeal from it within eight days to the audiencia of the territory.

ART. 27. The provincial deputation shall meet only in the capital of the province every year on the first working day of the months of April and November.

ART. 28. The first session of each term shall be inaugurated by the governor in the name of the Supreme Government.

(1) By a royal order of April 23, 1871, the following was decided:

INTERIOR DEPARTMENT.

His Majesty the King has deemed proper to resolve (1) that when the governor, the president, and the vice-president of the corporation do not take part at the sessions of the provincial deputation after the inaugural session treated of in article 32 of the law, and there is present at the same the number of members prescribed by article 42 of the former, the vice-president of the permanent committee shall preside; and (2) that should the vice-president of the provincial committee not be present at the session of the same, nor the governor, and there is present the number of members prescribed by article 62 of the law, the member of the same who obtained the highest number of votes at his election thereto shall preside, and in case there are two or more who receive an equal number, the senior in age shall preside.

Which, by royal order, etc.

Madrid, April 23, 1870. SAGASTA.

ART. 29. The office of deputy is gratuitous, honorary, and subject to liability, and can not be renounced after having been accepted except for just cause.

The duration thereof shall be four years, a renewal of half the deputies which constitute the deputation being made every two years.

The first designation shall take place by lot. First the greater number shall cease, if the total should not be capable of an exact division, and in the subsequent renewals the oldest in service shall cease.

ART. 30. The extraordinary vacancies occurring for any reason whatsoever shall be filled by partial election, whenever an ordinary session of the deputation is to be held before the general renewal, the person elected taking the place of the deputy who retires.

When a vacancy occurs by reason of administrative or judicial suspension, or after the period above mentioned, the Governor-General shall temporarily fill it with any person who may have already held the office of provisional deputy by election, should there be any. The person appointed shall continue to hold the office until the suspension of the deputy whose place he is filling is finally decided upon, or until the first renewal, if at that time the former should retire on account of the series established.

ART. 31. The provincial deputation shall have the power to accept or refuse resignations and to declare vacancies in accordance with the provisions of this law.

The governor shall order ordinary and extraordinary elections whenever they are to be held according to law and in the manner prescribed by the same. The elections shall be announced within the five days following that on which they were decided upon, and shall take place within a period not less than fifteen nor more than thirty days after the call.

ART. 32. The deputation shall determine at its first session of each semiannual term the number of sessions it shall hold during the same. Should it be necessary, it may order an adjournment with the consent of the governor.

Should any causes arise during sessions which should render their continuance dangerous, the governor may suspend or adjourn them, immediately notifying the Governor-General of his action.

ART. 33. The deputation shall hold extraordinary sessions whenever it should be necessary, in the opinion of the Governor-General or in that of the governor of the province, for the consideration of any special question.

ART. 34. The governor shall make a call, notifying in writing and at his domicile each one of the members eight days in advance and stating the object if an extraordinary session is in question. The session shall be announced the same time in advance in the official newspapers and in the usual manner.

ART. 35. When the governor considers on account of special reasons that public order may be endangered if an extraordinary session takes place, he shall suspend the call, making a report to the Governor-General.

Within the fifteen days following the communication the Governor-General shall decide what may be proper, approving the resolution of the governor or raising the suspension. The latter is considered raised if, a month having elapsed from the date of the resolution of the call, no superior resolution whatsoever to the contrary has been made public.

ART. 36. The sessions must be public when accounts, budgets, or other questions related thereto are in question, and also when certificates of provincial elections are to be discussed.

An extract of the sessions shall be published in the bulletin or in the official newspaper.

ART. 37. Attendance at sessions is obligatory. Any deputy who, without a legitimate and justifiable reason, does not comply with the provisions of this article shall incur a fine of 20 pesos for each offense, being, moreover, liable for any damages arising from his tardiness.

Any deputy who shall find it necessary to absent himself shall notify the governor; otherwise he shall incur the liabilities mentioned in the preceding paragraph.

During the sessions permission from the deputation is required to obtain leave of absence, which shall only be granted in so far as its effects do not conflict with the provisions of the following article.

ART. 38. In order to deliberate on any subject the presence of an absolute majority of the total number of deputies is necessary.

ART. 39. In order to adopt a resolution the vote of the majority of the members present is necessary, except as provided for in a contrary case by this law. In case of a tie, voting shall be resumed the following day, and should there be a second tie the president shall cast the deciding vote.

ART. 40. The provisions of articles 57, 58, 95, 99, 101, 103, 104, and 107 of the municipal law are applicable to the provincial deputations in so far as possible.

ART. 41. For the dispatch of business, order of sessions, and mode of procedure the deputation shall draft the regulations to be observed, which shall be submitted to the Governor-General for approval.

ART. 42. At each one of the semiannual meetings the president and secretaries of the deputation shall submit a statement mentioning the business it has to consider, with a notice of all pending matters, state of the accounts, funds, and provincial administration.

CHAPTER IV.—*Jurisdiction and powers of the provincial deputation.*

ART. 43. The administration and direction of the special interests of the province are under the jurisdiction of the provincial deputation, in so far as they do not appertain to the municipal councils, according to this law and the municipal law, and particularly in all that refers to the following subjects:

1. The establishment and preservation of the services devoted to the comfort of the inhabitants of the province and the development of their material and moral interests, such as roads, navigation and irrigation canals, and all kinds of public works of provincial interest, charitable establishments, and institutions of instruction, fairs, expositions, and other institutions for improvement and other similar objects, subject to the special laws and regulations of the different branches of the public administration.

The powers appertaining to deputations, in so far as charity is concerned, are and shall always be understood without prejudice to the high inspection which, in this as well as in all branches of the administration, is conferred upon the Governor-General by legislation in force.

2. The administration of provincial funds, either for the use, enjoyment, and preservation of all kinds of property, acts, and rights belonging to the province or to the establishments depending on the same, or for the settlement, distribution, investment, and account of the necessary revenues to carry into execution the services intrusted to the deputation.

The deputation shall conform to the prescriptions of the laws and provisions issued for their execution in all matters which, according to

the present law, are not of its exclusive jurisdiction and wherein it acts by delegation.

ART. 44. The provisions of article 74 of the municipal law are applicable to provincial deputations as well as those of article 70 of the same law, in so far as applicable to the nature of the services intrusted to said corporation.

Institutions of instruction constituted and supported by the provincial deputation shall conform to the provisions in force on public instruction.

ART. 45. The deputation shall furthermore have all the powers conferred upon the same by the municipal law.

ART. 46. The resolutions adopted by provincial deputations, in conformity with the provisions of article 43, are final, without prejudice to the appeals established by this law.

ART. 47. The resolutions of provincial deputations shall be communicated within the period of three days to the governor, who may in all cases suspend them at his own instance, and at the instance of any resident of the province in the following cases:

1. On account of deciding questions which, according to this law and other special ones, are not of the competency of the deputation.

2. On account of delinquency.

The suspension shall be communicated to the provincial deputation within the eight days following the notification of the resolution, after which period it is final by its own right. The period shall begin from the time of the receipt of the proceedings if the governor called for them for examination.

The suspension, in any case, shall state the reasons therefor, and a definite and precise statement shall be made of the legal provisions on which it is based.

ART. 48. After the suspension has been communicated, the deputation may appeal to the Governor-General, to whom the governor of the province shall forward the appeal with the proceedings and his report within a period of eight days. The Governor-General shall decide, after consultation with the council of administration, within forty days after the transmission of the proceedings.

ART. 49. The governor shall also suspend the execution of the resolutions referred to in the first paragraph of article 47 whenever injury may result therefrom to the civil rights of a third person.

In this case the suspension shall only take place when the interested party so requests it, presenting at the same time a complaint against the resolution.

The governor shall order the suspension, if it should be in order, within the three days following that on which the petition was presented, and shall on the next day notify the interested party.[1]

ART. 50. Any person considering himself prejudiced in his civil rights by the resolutions of the deputation, whether their execution has been suspended or not by virtue of the foregoing provisions, may object to the same through a complaint to the judge or court of compe-

[1] According to a royal order of July 27, 1882, the resolutions must be communicated within the period prescribed to the governor, even though the latter presided over the session, in order that the office of the secretary of the civil government may communicate the same to the persons interested.

The suspension of the resolutions of the deputation can only be ordered by the governors in the cases specifically mentioned in this law, and as may have been confirmed also by royal order of April 15, 1874, when it was ordered that the governors only are the executors of the resolutions of deputations.

tent jurisdiction, according to what may be prescribed by the laws, in view of the character of the question.

The judge or court taking cognizance of the matter may suspend, by means of a first ruling and on the request of the party interested, the execution of the resolution appealed from, should this not have taken place in conformity with article 48, whenever he considers it proper and convenient in order to avoid serious and irretrievable injury.

A period of thirty days is granted for the presentation of this complaint, beginning from the date of the notice of the resolution, or from the date in which the suspension was communicated in a proper case; should this period of time elapse without the complaint having been presented, the suspension shall cease by right and the resolution accepted.

ART. 51. When a resolution is suspended or appealed from by virtue of the provisions of the preceding articles, the governor shall forward the data to the Governor-General in the first case, or to the judge or court of competent jurisdiction in the second case, within the period of eight days.

ART. 52. The resolution suspended by the governor and not appealed from to the courts shall be communicated within a period of eight days to the Governor-General, who shall decide in the manner prescribed by article 173 of the municipal law.

An administrative litigative appeal lies from the resolution of the Governor-General.

ART. 53. The respective municipal councils may appeal within the period of eight days, counting from that of the publication or notice of the assessment, against all kinds of assessments, approved in accordance with the provisions of the municipal law, which the deputation may order amongst the towns of the province in order to cover the general and necessary expenses for the provincial requirements.

After this period has elapsed it shall be final without further remedy.

The Governor-General shall decide on the appeal after hearing the council of administration, and his confirmatory ruling may give occasion to an appeal to the court of the island hearing administrative litigation.

CHAPTER V.—*Organization and mode of procedure of the provincial committee.*

ART. 54. The Governor-General shall appoint from among the members of the deputation the members of the provincial committee and its vice-president.

It also behooves the Governor-General to remove and suspend the same, which must be for good reasons.

ART. 55. The committee is composed of five deputies, among whom there shall not be more than one from the same judicial district. The duration of the offices shall be four years. The extraordinary vacancies shall be filled in the same manner, and the appointees shall occupy with regard to the series of cessation (salida) the place of the members they substitute.

The Governor-General shall pass on the excuses offered by the appointees.

ART. 56. The provincial committee shall have the powers granted to the same by this law. It is always in session and resides in the capital of the province.

Each one of the members shall enjoy the remuneration which the

deputation may decide upon and which shall not exceed 2,000, 1,600, or 1,200 pesos in the provinces of the first, second, or third classes, respectively.

ART. 57. The provincial committee shall meet as often as required by the business intrusted to it, in accordance with the order fixed in the first session of each month.

ART. 58. The governor is the president of the committee, and the secretary of the deputation shall be the secretary without a vote.

ART. 59. In order to deliberate on any subject the presence of three members is necessary, and this number of favorable votes is necessary for the adoption of a resolution.

When this number of favorable votes is not obtained at a ballot, voting shall be resumed the following day, and the decision of the majority shall cause the resolution to be adopted; should there still be a tie, the vote of the president shall be the deciding one.

ART. 60. After the office has been accepted, attendance at the sessions is obligatory.

When a member does not attend four consecutive sessions, without permission from the committee or just cause accepted by the same, it shall be understood that he renounces his office, without prejudice to the liability he may have incurred according to article 37.

ART. 61. The sessions of the committee shall be public in the shape and manner prescribed in the municipal law for sessions of municipal councils.

ART. 62. The provisions cited in article 40 are applicable to these sessions in so far as they are compatible with the organization and mode of procedure of this body.

CHAPTER VI.—*Jurisdiction and powers of the provincial committee.*

ART. 63. The provincial committee shall have the following powers:

1. As a consulting body, to give its opinion whenever the rules and regulations prescribe it and whenever the governor, of his own accord, or by command of the Governor-General, deems convenient to request it.

2. To pass upon the claims and protests in the election of councilors, and the disqualifications and excuses of the latter, in the cases and in the manner established by the electoral and municipal laws.

3. To temporarily take charge of the business intrusted to the provincial deputation, when by reason of the urgency or the nature of the matter the meeting of the same can not be awaited; in such cases the provincial deputies who are at the capital at the time must attend the sessions.[1]

The deputation, at its first meeting, shall decide whatever it may deem convenient in order to reach a final resolution.

ART. 64. The competencies of jurisdiction and powers between the administrative and judicial authorities shall be decided in accordance with the regulations of July 4, 1861.

ART. 65. The governor shall direct the litigation instituted in the name of the province.

In order to institute ordinary suits of greater amount the resolution of the provincial deputation is necessary; in all other cases that of the governor is sufficient, after hearing the committee.

[1] By a royal order of June 13, 1877, it was ordered that these sessions be presided over by the president of the deputation, and in his absence by the vice-president of the permanent committee, unless the civil governor of the province is present.

CHAPTER VII.—*Employees and agents of the provincial administration.*

ART. 66. The following are the divisions of the provincial deputation:
1. Office of the secretary.
2. Office of the auditor.
3. Office of the treasurer.

There shall be a chief at the head of each of these divisions, under whose orders all the necessary employees shall serve.

It behooves the governor, on the recommendation of the deputation of the province, to appoint and remove these chiefs.

ART. 67. The provincial deputation appoints and removes its other employees.

ART. 68. The personnel, the salary, and the duties of all the employees of said divisions, and the regulations for the interior management, shall be prescribed by the deputation, submitting the same to the Governor-General for his approval.

ART. 69. The recommendation or appointment of the said officials shall be made after competition from among the persons who possess the qualifications determined by special regulations.

ART. 70. The Governor-General may also remove or suspend secretaries, auditors, and treasurers, without the recommendation of the deputation, for serious reasons duly justified in proceedings.

The suspension can not exceed four months.

ART. 71. The interested parties may enter complaints against the ruling of removal or suspension before the colonial secretary through the Governor-General, who by the first mail shall forward the appeal with the record of the proceedings and his report thereon.

The colonial secretary shall decide, without loss of time and without further appeal, after hearing the council of state.

ART. 72. The provincial deputation may, after securing the approval of the Governor-General, appoint any one of its members or employees to inspect the municipal councils in order to ascertain the condition of their services and archives.

During these visits no rulings shall be issued concerning municipal matters, and the delegates shall confine themselves to informing the deputation, which in view thereof shall adopt the proper resolutions in conformity with this law.

ART. 73. The secretary is intrusted with the preparation and dispatch of the matters of which the committee and the deputation have to take cognizance, with the drafting of their minutes and resolutions, the correspondence, and the care and preservation of their archives.

He shall sign, with the president, the reports and resolutions of the committee and of the deputation, and shall authorize them with the seal of the province, the care of which is intrusted to him, and shall also see that the proper parties are duly notified.

ART. 74. The treasurer is the only person intrusted with the custody of the provincial funds, and as such he shall give the sureties which the deputation may require.

CHAPTER VIII.—*Budgets and provincial accounts.*

ART. 75. The provincial deputation shall follow, in the accounting of its funds, the provisions of the decree of September 12 and the instructions of October 4, 1870, issued for the management of the financial administration and accounting system of the colonies and the others in force relating to special services.

ART. 76. The provincial deputation shall draw up, discuss, and approve its ordinary and additional budgets within the second month of the fiscal year, and shall forward the same to the governor for the twofold purpose of correcting legal extralimitations, should there be any, and to prevent the general interests of towns from being injured.

ART. 77. The deputation may appeal from the decisions of the governor, taking such appeal to the said governor, in order that it may be forwarded to the Governor-General of the island, who shall decide thereon without loss of time, hearing the council of administration.

If no decision has been rendered by the Governor-General fifteen days before the beginning of the fiscal year, the budgets approved by the deputation, with the amendments made therein by the governor of the province, shall be in force.

ART. 78. The general disbursing office appertains to the president of the deputation or to whomsoever represents him whilst the deputation is in session; when it is not in session it shall appertain to the vice-president of the provincial committee.

ART. 79. The monthly distribution of funds shall appertain to the deputation, or if it should not be in session to the committee in union with the deputies who may be in the capital.

ART. 80. The provincial budget shall precisely include the necessary amounts, in accordance with the revenues of the province, to cover the following services:

1. Personnel and supplies of its offices and dependencies, and provincial charitable institutions, as well as sanitary establishments and those of instruction.
2. Preservation and management of the estates and buildings of the province.
3. Construction, preservation, and management of its public works.
4. Inspection of municipal timber lands.
5. Encouragement and preservation of trees.
6. Subscription to the *Gaceta de Madrid* and that of Havana.
7. Fund for emergencies and public calamities.
8. Advertisements, printing, and other expenses which may be considered necessary or convenient.
9. All the other expenses which may be clearly and precisely required by this and by other laws in the part to be complied with by the province.

ART. 81. The vote of an absolute majority of the total number of deputies is necessary for the approval of the budget. If the budget should not be approved at the beginning of the fiscal year, the previous budget shall remain in force in its necessary parts, or in a proper case the provisions of article 77 shall be observed.

ART. 82. In order to cover the expenditures specified in the provincial budget, the deputation shall make use of the revenues which may be proper, not only those derived from rents and profits on all kinds of property, rights, or capitals which for any reason whatsoever belong to the province or to the establishments depending thereon, but also those derived from public works, institutions, or services paid for from its funds.

If these receipts should not be sufficient the deputation shall levy an assessment to cover the balance among the towns of the province, in proportion to the amount of direct taxes paid by each one of the same.

ART. 83. This quota shall be included in the budget of each town, and the entire amount thereof shall be paid into the treasurer's office

at the time of the ordinary collection or before, should the municipal councils voluntarily make the payment thereof.

ART. 84. The provisions of articles 153, 154, 157, 158, and 165 of the municipal law are applicable to the deputation in all that appertains to the collection, management, and custody of the provincial funds.

ART. 85. After the accounts for each term have been drawn up and approved, the deputation shall forward the same to the Governor-General in order that he may transmit them to the court of accounts of the Kingdom.

TITLE III.

DEPENDENCY AND LIABILITY OF DEPUTIES AND AGENTS OF THE PROVINCIAL ADMINISTRATION.

ART. 86. The provincial deputation and the committee are subject to the inspection and dependency of the supreme government and of the Governor-General, and are therefore subject to the proper administrative liability in all matters that are not of their competency, in accordance with this law and with other general or special laws in force.

The governor is intrusted with the transmission to the deputation and to the committee of the laws, provisions, and instructions which the Governor-General may communicate to him, in so far as they concern them.

ART. 87. The provincial deputation shall be liable:

1. By reason of manifest infraction of the law in its actions or resolutions, whether it be on account of its having transcended its powers or abused those appertaining to it.

2. By reason of disobedience to the Supreme Government or to the Governor-General in the matters in which it acts by delegation and under orders from them.

3. By disrespect to the authority.

4. By reason of negligence or carelessness, causing injury to the interests or services intrusted to it.

ART. 88. The liability shall be demanded administratively or judicially, in a proper case, according to the nature of the act or omission.

The liability shall only be demanded from the deputies who incurred the omission or took a direct part in the act or resolution which caused it.

ART. 89. The administrative liability includes warning, fine, and suspension.

The provisions of article 179 of the municipal law are applicable to these penalties.

ART. 90. The following rules shall be observed for the imposition or exaction of fines:

1. It behooves the Governor-General, first hearing the council of administration of the island, to declare the penalty.

2. The fines shall not exceed 200 pesos.

3. The fines shall be paid by the deputies liable.

4. The provisions of articles 181, 182, and 183 of the municipal law are applicable to these fines.

ART. 91. Suspension is in order in the cases mentioned in article 186 of the municipal law. The provisions of articles 187, 188, and 190 of the municipal law are applicable to proceedings of suspension of provincial deputies.

Should criminal liability exist the provisions of article 189 of the said law shall be observed.

ART. 92. The deputation in full may be suspended from its duties by the Governor-General if necessary to maintain public order, as well as in the cases provided for in article 9 of this law, immediately informing the colonial department of his action and forwarding the proper proceedings.

In view thereof, after hearing the council of state and in accordance with the council of secretaries, the deputation may be declared dissolved, and any other orders which may be proper shall be issued. If any liability should appear against the same or against one or more of its members, they shall be placed at the disposal of the courts of competent jurisdiction.

Art. 93. Any deputy who has been removed from office can not be reelected until six years at least have elapsed, unless the sentence does not impose a penalty of disqualification for a longer period.

ART. 94. The audiencia of the territory shall be the competent court in first instance, with the appeals to the supreme court authorized by the laws, in the offenses committed by the deputation in a body and by the provincial deputies in the exercise of their functions.

ART. 95. The employees and agents of the provincial administration appointed by the deputation shall render obedience to the same and are liable to it in accordance with this law.

ADDITIONAL PROVISIONS.

1. All prior laws and provisions, in so far as they conflict with the present ones, are hereby repealed.

2. The supreme government shall issue, in accordance with this law, the regulations necessary for its execution.

TRANSITORY PROVISIONS.

1. The first division of the provinces of the island of Cuba into electoral districts shall be made by the supreme government, hearing the Governor-General, without prejudice to amending the same after the deputations have been elected, in accordance with the prescriptions of this law.

2. After the division of the provinces into electoral districts has been published in the Gazette of Havana the Governor-General shall announce the elections and shall order what may be proper, so that the preliminary work of the same may be proceeded with.

3. Until the electoral law is published, to which reference is made in article 5, the persons designated in the second transitory provision of the municipal law shall be electors.

A true copy.

R. GALBIS,
Secretary of the General Government.

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